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Political Power and the Constitution*

JOHN L. WALLER
Texas Western College

The Articles of Confederation, our first constitution, was written during the War for Independence. Conviction was general that the British Government had been tyrannical and oppressive. Consequently there was unwillingness to establish a powerful central government. The net result was that it could scarcely touch the individual at home, and could not deliberate on anything like even terms with foreign governments.

The so-called "Critical Period" followed, during which time the Government experienced great difficulty in demobilizing the Revolutionary soldiers, and found it impossible to pay anything on the public debt, not even the interest. Furthermore, we had no success in negotiating commercial treaties with England, France, or Spain. The nation was flooded with paper money, continental and state issues, and debtor-creditor relations were seriously strained in different sections. Discontented groups threatened to take matters into their own hands, and in Massachusetts the Shay's Rebellion prevented courts from aiding in the collection of debts. Conservative and thoughtful people in the states, who had at first believed they could protect themselves and their interests best by controlling their own state government, now came to favor strengthening the central government. The Founding Fathers of the Constitutional Convention of 1787, though not "demigods," were representatives of the best elements of our people.

The greatest problems confronting them in their four months of deliberation concerned the question of power—how to draw the line between the powers of the central government and those reserved in the states and with the people, keeping in mind always safeguards for the people against abuse or misuse of the powers granted. Hamilton advocated creating a powerful central government subordinating the states and the people,

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and able to command respect both at home and abroad. Most of the delegates, however, had a healthy fear of power, and were convinced that it must be limited and controlled. The best minds of the Convention pondered long and deeply on this question of exercise and division of power. The final results placed matters of general interest under the control of the Central Government, and those of a local nature were to be controlled by the states. Enumeration of the powers, together with the specific reservation in the tenth Amendment to the effect that all powers not specifically delegated were reserved to the states, or to the people, definitely limited proponents of a strong central government in their efforts to expand the powers by interpretation. George Mason insisted on placing a Bill of Rights in the Constitution, and refused to sign the document when it failed to contain one. He objected to other features also. Strong demands for these safeguards led members of several ratification conventions to pledge their efforts to secure a Bill of Rights if the Constitution were approved. These pledges, no doubt, helped to secure ratification. The Bill of Rights was added during Washington's presidency. Time and experience would test the fruits of the Fathers of the Constitution.

From the first use of the powers of the Central Government fears were voiced and challenges were raised. Congressional action on Hamilton's reports (especially chartering of the Bank, Assumption of the State Debts, and the Whiskey Tax) was fought by those fearful of the results. Attempts of the Federalist Party to identify criticisms of their policies as efforts to undermine the Government, the Alien and Sedition Acts, were vigorously opposed in Congress, and outside in the Virginia and Kentucky Resolutions of Madison and Jefferson. Any move to broaden or strengthen the powers of the Central Government was invariably opposed. Jefferson and his associates objected to Hamilton's public debt, a strong military establishment, and Judicial Review, while the Federalists resisted the Louisiana Purchase, and the Embargo. There was no organized party of opposition during Jackson's presidency, but, there was an array of powerful leaders (Clay, Webster, Calhoun, John Quincy Adams) to challenge what they described as the dictatorial methods of the "King Andrew."

The War of 1812, in spite of all its bungling and humiliation, was colored by Jackson's victory at New Orleans, and was followed by an astonishing legislative manifestation of nationalism—enactment of a protective tariff, recharter of the United States Bank, creation of a national military establishment, and consideration of a broad plan of internal improvements. Even Jefferson and Madison supported most of this legislation. There were those, however, who set their faces like steel against it. John Randolph of Roanoke during the debate angrily shouted, "The question is do we wish to create one great consolidated state." John C. Calhoun, at

the moment an ardent nationalist, soon became uneasy and shortly concentrated his powerful mind upon protection of minorities. I wonder what he, if alive today, would think of the actions of these back-scratching minorities of our time who are so effective in getting about all they desire from the national Congress (government)? Secession and organization of the Confederacy resulted largely because Southern leaders were convinced that they did not have and could not get protection in the Union under the Constitution.

The Civil War was accompanied and followed by great concentrations of powers in the Central Government—recreation of large national debt (wiped out in Jackson's administration), nationalization of citizenship, destruction of private property without compensation, raising the protective tariff for benefit of private interests, charters for corporations, and interpretation of the 14th Amendment favorable to industry. And, when in distress, the South and West during the 80's and 90's instead of appealing to the states for help demanded broadening of the powers of the Central Government—nationalization of the railroads, telephones and telegraphs, and manipulation of the money system to aid the distressed classes.

Concentration of economic power in the form of corporate wealth grew at such an alarming rate after the Civil War that efforts to regulate and control were made both by state and national governments. The efforts were often weakened or thwarted by unfriendly courts. It was not until the Wilson Administration that some semblance of control was established by Congress.

The Communist Revolution in Russia aroused fear in the hearts of men, and a wave of reaction began. The Red scare swept our country, being reflected in national and state legislation, court decisions, and reaching a climax in Attorney-General A. Mitchell Palmer's dragnet raids, expulsion of Socialists from the New York Legislature, and the Sacco-Vanzetti Case. Professor Zechariah Chaffee of Harvard brought out his valuable volume, *Freedom of Speech*, to warn against abuse of power and loss of safeguards to individuals. Prosperity in certain areas and the desire of exporters to exploit the Russian markets gradually helped to allay the hysteria.

The prolonged distress of the 1930's encouraged various proposals, such as Dr. Townsend's Federal pension of \$200.00 monthly for all over sixty, Huey Long's "Share the wealth—every man a king," and the noisy and dangerous suggestions of such men as Father Coughlin and Senator Bob Reynolds of North Carolina. Some of this was socialistic and some Fascistic; much was ignorant if not downright dishonest; and some sinister in that it was a bid for political power. There was a bold advance of Communism, and many of the so-called intelligentsia flitted about the

fringes of this un-Americanism. The Ku Klux Klan, with its blatant program of racial hatred and religious bigotry, spread like a prairie fire during the '20's, and was a strong political force in many states all during the '30's. In many instances the movement was simply a racket to collect as much loose change as possible, but in certain areas there was a real bid for political power—successful in one or more states. The Ku Klux Klan, Black Legion, Silver Shirts, Bunds, and the like all threatened the rights and safeguards of the individual.

As Nazism and Fascism took hold of bankrupt Italy and Germany, with their teeming millions of unemployed and poverty stricken peoples, Statism rose to an ascendant. At the same time Communism in Russia was forging the chains of slavery on the Russians. Consequently, when the brazen scheme of world domination of Hitler-Tojo-Mussolini became increasingly evident all freedom loving peoples everywhere were gradually driven into alliance, and eventually to the unhappy choice of Stalin and the Politburo for partnership in meeting the powerful and terrifying threat of the Nazis. Now after the "toil, sweat, and tears" which brought destruction to the Rome-Berlin-Tokyo Axis where are we? Where is the peace and security for which we paid such a price?

We still have world divided into armed camps, and into contrasting groups—one in which the individual counts, and in the other is merged in the mass of subservients to the all-powerful state. Is such a division necessary and unavoidable? Have we now arrived at basic conflicts, such as that between good and evil, Christianity and paganism? Can such differences be reconciled? Is the issue one of power? If so how can we meet such a challenge? Does it mean that we will have to make such a concentration of power in our own country with all the possibilities of danger and oppression, and loss of the rights and importance of the individual?

How are we going to meet the challenge of Communism in our own country? The tragic farces of the trial of certain Communist groups and Congressional committee investigations pose the very serious question of whether it is possible to maintain inviolate all safeguards for the individual when the enemies of the nation are using these safeguards as shields to aid them in destroying the nation. Many lawyers who take oaths to uphold and defend the Constitution resort to all kinds of trickeries to defeat justice.

Jeffersonian ideals of liberty and freedom from restraints loom paramount in the minds of those who fear the Big State and abhor totalitarianism of every sort. Freedom of speech and publication, even of errors as

long as the mind of man is free to combat it, are the sheet anchors of liberty for the individual.

Jefferson's distrust of the military colored the actions of government throughout the 19th Century. It is true we had great numbers in the armed forces during the Civil War, but only temporarily. It was not until the days of Theodore Roosevelt that the idea of a big navy became somewhat acceptable. Even so, we did not keep pace with naval growth of the great powers. After building up a powerful navy during World War I our people were willing to scuttle much of it in order to forestall a naval race. Parity with Britain was proposed at that time, not so much through any idea of vanity as for the purpose of checking Japanese naval expansion. That this failed is well known. Our bitter experience in World War II convinced us of the necessity of preserving our fighting naval forces.

Fears of the threatening forces of Communism are now getting the navy vessels out of moth balls, and we are once more moving to meet the threats to our peace and security. We have never maintained anything like a powerful land force. The idea of universal military training has been thoroughly unacceptable to our people, and even today under the ominous dangers of the Russian-Chinese imperialistic threats we are adopting the precedent of a permanent large army with great reluctance. Such a policy cannot fail to affect our way of life. With over 75% of the national tax money going to pay cost of present military establishments or for past wars, how much will be necessary, in addition, to sustain the burden of such a military establishment as contemplated at the moment?

In the days of Jefferson the Federal Government used its taxing powers cautiously and indirectly. The first instance of a direct tax (Whiskey excise) caused such an outburst of anger that such a method was avoided for years. The Civil War started direct taxation in a big way. World War I extended the field both in variety and weight, and World War II made it well nigh universal. A national sales tax has been proposed seriously in the present Congress. Of course we already have such taxes, gasoline, and all other things that require Federal stamps.

Many business leaders—for example the Liberty League members of the early years of the New Deal—speak much and poignantly of Freedom of Enterprise. Yet many of these very leaders use strong and often devious efforts to secure favors from the Government. How can one retain freedom of enterprise when accepting subsidies from the Government? We have an ugly name, Gold Digger, for a woman who seeks favors and does not reciprocate.

Pressure groups of all sorts—cutting across party lines—combine with each other to secure favors from the Government; and by their very nature are tending to destroy our time-honored two-party system. In other words it is becoming increasingly difficult for the voters to make a choice of parties, because the pressure groups have supporters in both major parties. Turning the rascals out and making a housecleaning does not have the significance of the past. Every pressure group, or its leaders, must decide if a change will benefit or hurt its position. Party loyalty is not what it used to be.

The Stock Market Crash of 1929 and accession of Roosevelt with the New Deal—mobilization of the powers of government to combat the depression as if it were an invading enemy, cleansing the temple of the money changers, smiles on labor and farmers, attempts at court packing, redistribution of wealth, stress on Civil Rights—all aroused fears and uneasiness that eventually led to concerted efforts to defeat Roosevelt. His move to change the personnel of the Federal Courts, especially that of the Supreme Court, brought about a determined reaction in all classes of the population. This bulwark of defense of individual rights was held somewhat sacrosanct. It was undoubtedly Roosevelt's outstanding political blunder.

Most of the New Deal, and the later aspects of it, the Fair Deal, have met bitter opposition. The Tidelands Oil Fight aroused fears in the states, especially those immediately concerned, revived the almost forgotten theme of State's Rights and gave evidence of the continued though weakened existence of the theory of Federalism.

Separation of powers in the Central Government, with its checks and balances, was intended to make three separate and equal divisions of government. Any increase of influence in one branch through forceful leadership such as that of Marshall in the Supreme Court, Jefferson and Jackson in the Executive Department, or Clay and Reed in the Congress, was sure to arouse jealousy in the other departments.

A number of factors have contributed to the growth in importance of the Executive: 1) development of the party system; 2) crises, Civil War, World War I, Roosevelt Depression, World War II and the tension leading up to it, and now the Communist threat; 3) increasing activities of the Central Government—subsidies, dollar matching, and development of government agencies supervised by the President and semi-independent of Congress—Interstate Commerce Commission, Federal Trade Commission, Federal Power Commission, Civil Service Commission, Securities Exchange, Civil Aeronautics Board, and the Reconstruction Finance Corp-

oration (all tending toward personal control); 4) a shrinking world and abandonment of our historic policy of isolation and non-entangling alliances; 5) and last but by no means least is the factor of party leadership. The executive is not only president of the United States but is head of a political party. The last factor gives great force in pushing legislation through Congress. The party system, however, does not insure strong leadership, for the party bosses thrive on "loaves and fishes", and like to have a president who will play ball with them. This fact and jealousy of the Congress nearly always secures the election of a weak president to follow a strong one—Madison after Jefferson, Grant after Lincoln, Harrison after Cleveland, Harding after Wilson, and the most loyal would scarcely put Truman in the Roosevelt class of leadership.

The increase in importance of the executive has paralleled, yes contributed to the rise of the "Big State". And is not the "Big State" a serious threat to the American way? Jefferson asserted that, "The generalizing and concentrating all cares and powers into one body . . . has destroyed the liberty and the rights of men in every government which has ever existed under the sun." And he further declared, "Our country is too large to have all its affairs directed by a single government. Public servants at such a distance, and from under the eye of their constituents, must, from the circumstance of the distance, be unable to administer and overlook all the details necessary for the good government of the citizens; and the same circumstance, by rendering detection impossible to their constituents, will invite the public agents to corruption, plunder and waste."¹

Those who exercise self-government, that is self-control, have little to fear of police interference in their daily lives; whereas those who fail to do so inevitably find themselves being ordered around. If local self-government be active and efficient, as demonstrated in the New England Township government, there will be few calls for help and less interference from the central government.

A modern disciple of Jefferson believes, "The people need to be warned again and again against the evils of big government. Big government is more susceptible to crime and corruption than big businesses because big government is inevitably bigger and more remote from the supervision of those most vitally concerned. And government is as power-hungry as any other monopoly can possibly have been."²

Have we not gone dangerously near to upsetting the balance so wisely

¹Thomas Jefferson, *Writings*, VII, 451.

²Lynn Landrum, "Thinking out Loud" in *Dallas Morning News*, March 23, 1951.

established by the Founding Fathers—clear division of the powers of sovereignty between the states and the nation, with checks and balances in the central government and the Bill of Rights for protection of the individual? Are we not confronted today with the same major problems (control of power) that confronted the Constitutional Convention of 1787?

The Social Sciences in a Troubled World*

JAMES P. HART

The University of Texas

I appear tonight with a feeling on my part that I am among congenial spirits, because while I have never been a teacher of the social sciences, and I have been only to a limited extent a student of them, since I left Law School some twenty-three years ago, I have been personally engaged since that time in the practice of a profession that involves the application of all of the social sciences—that is, the legal profession. A knowledge of the social sciences is most helpful to a practicing attorney and it is absolutely essential to a judge who desires to have an adequate comprehension of his duties and the implications and results of his decisions. So while I have not been actually a social scientist, I have been and I am very much interested in the social sciences and their success.

This makes me all the more concerned with the position of the social sciences in the present troubled situation of the world. What with threats of the infiltration of communism, of the gradual erosion if not the violent destruction of our social, economic and governmental systems, and of the ultimate incineration of all life on this globe by one or more gigantic atomic explosions, a person begins to think that Shakespeare's three witches in *Macbeth* were prophesying our own times when they chanted:

"Double, double, toil and trouble,
Fire burn and cauldron bubble."

What concerns me most, so far as the social sciences are concerned, is that the deplorable situation in the world seems to be the result of the inability of men to make a mutually satisfactory arrangement for living together. In spite of all of the efforts of scholars in the social sciences to learn the essential characteristic of our society and the forces which operate in it, we seem almost as much at a loss today as we have ever been (or perhaps I should say that we have as widely divergent opinions as ever) as to what direction we should take and what we should do to get on the desired course, much less how we should achieve our ultimate goal. In this respect, our brethren in the physical sciences seem to have surpassed us by far. Give them a specific problem and they either come up with the answer or they make measurable progress toward that end. The conclusions they reach are usually, by reason of the nature of the prob-

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lems involved, unanimous. Apparently in the social sciences, on the other hand, we have had the same fundamental problems from time immemorial, but we seem about as far from satisfactory solutions as ever. Is this because we are any less efficient in our operations than the physical scientists? Or is it because our problems are essentially different and that it is after all unfair to make any such comparison as I have made between the accomplishments of the two great branches of science?

What is the object of the physical sciences? I speak as the rankest kind of amateur and on a basis which would be rejected in any court of law, because what I shall say is the purest hearsay. However, what I heard is the statement of a physical scientist of eminent accomplishments in his field, who happens to be very clever in other lines also, such as the ability to use the English language to express his thoughts. He said at one time in my presence something to the effect that the object of the physical sciences is to analyze matter so as to discover its smallest particles and to study the fundamental processes of nature so that they can be intelligibly stated. The difficulties the physical scientists encounter, he said, are that each of the ultimate goals is forever receding, apparently into infinity; that is, matter is forever being broken down into smaller and ever smaller divisions of atoms, nuclei, neutrons, and so on, and as these become smaller the means available for measuring them and otherwise ascertaining their nature become less and less accurate. On the other hand, he said, the processes become more and more complex, so that they cannot be described in words or pictures, or even in those long formulas with numerous Greek letters that the physical scientists use. For these two reasons, therefore, the physical sciences tend to become less and less the exact sciences that we once thought them to be and more and more philosophical.

On the other hand, there has been in the social sciences a tendency to follow the methods of the physical sciences, so far as they can be adapted to the social sciences, in the hope of making exact what has heretofore been stated only in more or less vague generalities. It was back in 1883 that W. G. Sumner wrote that, "the most complex and difficult subject which we now have to study is the constitution of human society, the forces which operate it, and the laws by which they act, and we know less about these things than about others which demand our attention."

In my own particular profession, the law, this spirit is represented, I believe, in the methods adopted by Dean Christopher Columbus Langdell at the Harvard Law School. In changing the system of teaching law from one based on a study of textbooks to one based on an analysis of cases actually decided by appellate courts Dean Langdell stated the gen-

eral principles of his educational philosophy as follows: "First, that law is a science; secondly, that all the available materials are found in printed books." Further elaborating on this theme, he wrote in the preface of his casebook on the law of contracts (1871):

"Law, considered as a science, consists of certain principles or doctrines. To have such a mastery of these as to be able to apply them with constant facility and certainty to the ever tangled skein of human affairs, is what constitutes a true lawyer; and hence to acquire that mastery should be the business of every earnest student of law. Each of these doctrines has arrived at its present state by slow degrees; in other words, it is a growth, extending in many cases through centuries. This growth is to be traced in the main through a series of cases; and much the shortest and best, if not the only way of mastering the doctrine effectually is by studying the cases in which it is embodied."

At about the same time that Dean Langdell was sounding his call for a scientific method of study of the law, another powerful voice in Massachusetts was approaching the problem from a different viewpoint. In his lectures on the common law Judge Oliver Wendell Holmes, Jr. was saying:

"The life of the law has not been logic. It has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the prejudices which judges share with their fellow-men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed. The law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics."

The philosophy of Dean Langdell is obviously to a considerable extent at variance with that of Judge Holmes. To Langdell the law was a body of principles or doctrines deducible from a careful study of specific court opinions. To Holmes on the other hand, the law was a much broader concept, to be learned from a comprehensive study of human experience rather than by a concentration on the principles declared in judicial opinions or elsewhere in any one source. For many years, Dean Langdell's philosophy has prevailed in the law schools. The study of law in the accepted law schools was for a number of years almost altogether, if not exclusively, an analysis of opinions of higher courts. When I attended Harvard Law School from 1925 to 1928, this was the prevailing system and it still persists generally to a large extent. The advantages of this method of study were and are obvious. Those who survive the rigorous training given by any first-rate law school come out as competent technicians in the study of court opinions and their thinking is likely to be much more realistic and exact than if they had had to acquire their know-

ledge from a study of texts. On the other hand, there are also certain disadvantages, and I am afraid that these disadvantages have been made manifest in the attitudes and conduct of our law school graduates, considered as a whole. During the three years he is in law school, the law student has thought about little except the law, mainly as expressed in judicial opinions. There is so much to the law that it is hard to see how it would be possible for the law schools to undertake to teach anything else during the time that is allotted to them out of a student's schooling. And yet I, for one, am happy to see that more and more there is a tendency to swing toward Justice Holmes's philosophy of legal education and to combine with the study of court opinions other materials for study which give the law student and the lawyer, after graduation, a keener appreciation of the way the law is affected by, and plays a part in, society as a whole.

I have talked about the study of law because it is a subject with which I am familiar and because I think it illustrates the situation that the social sciences generally find themselves in. We undoubtedly had much to learn from the physical sciences in the way of methods of study and teaching. Knowledge in the social sciences is undoubtedly much more exact today and much more systematic than it was say, one hundred years ago. We have learned how to get at the facts, how to assemble them, how to arrange them so that they are accessible to those who want to learn them. We have also acquired a certain toughness of mind which is, I believe, an asset. However, we must be careful not to become lost in a search for or a cataloguing of minutiae, and thereby lose sight of the fact that it is a living and ever-changing society that we are studying and that (at least as I conceive it) the ultimate goal of the social sciences is to open the door to knowledge of society for the purpose of making it possible for men and women to live together with greater mutual understanding and a better chance of achieving peace and harmony.

In various ways, I am wondering if the task of the social scientist is not actually getting constantly harder in spite of our labors in increasing and cataloguing knowledge. Not only does the historian, for example, have to read more and more published material, but he has to be more and more constantly on his guard to choose only that material which correctly states the facts and is not deliberately or unintentionally false. The poor practicing lawyer and the judge on the bench have such a multitude of printed opinions, statutes, regulations, and rulings pouring out of the courts, legislatures, and administrative agencies that it is impossible any longer for a lawyer or judge to keep up with the specific decisions or rulings except in relatively narrow fields. But we are still faced with the necessity of running society, and the only workable way of doing that is

through one man or a very few men who have to make the decisions of policy that the rest of us have to follow. In a democracy these men are chosen by the citizens generally and they rise or fall as they win or lose public support. It is absolutely necessary therefore, particularly in this country, that as the accumulation of knowledge increases, we correspondingly increase our capacity to broaden our vision, so that we can make an intelligent appraisal of what facts and forces are important and what policy can be pursued with a reasonable chance of success.

There is one specific way in which it seems to me that teachers in the social sciences can be of help in our present troubled situation: they can encourage their most intelligent students to take an active part in public life in one way or another. I am afraid that it is true that for many years the feeling has been that the best students would be wasting their time if they went into politics, for example. This is most unfortunate. In our present situation, we need leaders of broad education with an enlightened approach to public problems; the need is sure to become greater in the future; and the best way to get such leaders is to start training them in high school and college. If it should happen that our government is not run to suit us, if we should have a paucity of young, vigorous, intelligent leadership, then we should have ourselves primarily to blame. Our students in the social sciences should not only acquire a knowledge of society; they should also have a sympathetic understanding of the duties of public officers and at least a fair proportion of them should be inspired not only to continue to study, but also to take part in making, the history (political, economic, and social) of the times in which they will live.

Otherwise I would say in general that what social scientists can do in the present troubled times is to do what they are already doing, only to do it better. By that I mean that we should undertake to make careful and exact investigations to learn the facts as to all phases of society, past and present, and in the light of those facts to try to correlate and synthesize them into some understandable system. After we have done all that is humanly possible along those lines, I am confident that, if we are to be successful in approaching our ultimate goal, like the king of old, we will then also have to pray for understanding hearts, that we may "discern between good and bad."

Conflicts in Monetary and Fiscal Policy

RICHARD B. JOHNSON

Southern Methodist University

During 1950 profound differences between the Secretary of the Treasury and members of the Board of Governors of the Federal Reserve System were widely publicized. The extensive discussion in the lay as well as the scholarly and financial press probably acquainted a wider segment of the public than ever before with the subtleties of monetary policy. Nonetheless, the intricacies of the problems of monetary control, the structural deficiencies in our monetary-fiscal authority, and the uncertain distribution of authority between the Federal Reserve System and the Treasury perhaps are not well understood. At the cost of repeating too briefly what has been done adequately elsewhere, this paper reviews the development upon which the recent conflicts of the Treasury and the System are founded.¹ Such a review is a necessary preface to consideration of the bases of contemporary conflicts in monetary and fiscal policy.

Attrition against the powers of the Federal Reserve has been going on almost since the organization of the System. During World War I its operations were limited to rather mechanical servicing of Treasury and commercial banking needs. Its apparently successful use of aggregative controls during the 1920's promoted public acceptance of its position and there were no serious challenges to its authority. During the stagnation of the 1930's, however, even the System's staunchest defenders were willing to displace the traditional controls of the central bank with direct government actions which were considered more powerful weapons against deflation. Fiscal policy virtually supplanted monetary policy as the chosen means of restoring and preserving "full employment," but monetary control tools remained available to the System. During the 1940's, still greater attrition against Federal Reserve powers occurred in that its traditional credit control tools were seriously impaired.

This impairment came about partly through the System's desire to facilitate Treasury financing, and partly in its attempt to achieve several objectives in the economy. In 1940-41, resources and manpower in the United States were far from fully utilized. A considerable differential

¹For a full discussion of the developments during the war see: Youngman, Anna, "The Federal Reserve in Wartime," Financial Research Program, National Bureau of Economic Research, January 1945. Postwar Economic Studies, No. 8, "Federal Reserve Policy," Board of Governors of the Federal Reserve System, Washington, November 1947.

within the price structure existed, principally disparities between prices of agricultural and manufactured goods, which most economists agreed should be eliminated. And the banking system had large excess reserves upon which could be founded a considerable expansion of credit before the most powerful tools of the Federal Reserve System could be brought into play. These three conditions influenced monetary policy during the first stages of the war. The policies adopted were designed, consciously or otherwise, to provide an inflationary stimulation to the use of the economy's capacity, to achieve a better relation between the prices of agricultural and manufactured goods, and to utilize the excess reserves of the banking system in an expansion of the money supply.

In order to overcome the reluctance of banks to absorb new issues of government securities, the Federal Reserve System committed itself informally to the support of an interest rate pattern. Thereby it supported short-term governments, and to a lesser extent long-term governments, against significant variations in market price. The banks were induced in that way to convert their excess reserves into the equally riskless earning assets, Treasury Certificates, Bills, and Notes. Between 1941 and 1943 a very substantial expansion of the money supply was founded on this conversion. This involved very liberal extension of additional reserve credit through open market operations. Open market operations, in fact, came to be dictated by the requirements of supporting the government securities market rather than by the traditional criteria of maintaining stable credit conditions.

Although after 1943 the community had few unused resources which could be committed to productive activity, so that a continuing expansion of the money supply became undesirable, the commitments of the System to the Treasury made adoption of severe credit controls extremely difficult. Since direct price controls were limiting price increases and the savings program was diverting a considerable portion of current income into the government securities market, the deficiencies of monetary controls caused no immediate embarrassment. The System's function became more and more that of handmaiden to the Treasury. It provided the banks reserves when necessary to assure the successful conclusion of Treasury bond sale drives, and measured the success of its open market operations by the rigidity with which the bond market was controlled.

Upon conclusion of the war, however, direct controls over prices gradually degenerated, and the effectiveness of the savings program diminished. Moreover, the Congress was reluctant to continue effective fiscal controls. It reduced taxes and discouraged the Treasury's use of its surplus as a deflationary weapon. The Federal Reserve System at

this point logically should have imposed severe aggregative monetary controls in order to restrict, insofar as it could, the inflationary forces which were incipient and which soon became active.

But all the traditional controls of the System had been severely impaired. The use of the discount privilege had been virtually abandoned in the early 1930's, and since banks were not disposed to resume their discounting practices, variations in the rediscount rate were not particularly effective in controlling credit flow. Reserve requirements already had been pushed near their legal maximum, so that the reserve control privilege could not be used effectively.

The most serious impairment, however, was the conversion of the open market operation from a credit control device to a means of supporting the government securities market. So long as the Federal Reserve System was committed to sustaining a rigid pattern of rates, it could not deny the banks access to Federal Reserve credit, for whenever the banking system offered government securities for sale, the Federal Reserve System, as the only significant residual purchaser, was forced to buy them in order to sustain their market. Thereby the System was forced at the banks' discretion to replenish bank reserves for such uses as the banks might choose.

The Federal Reserve System cannot be criticized for lack of diligence in seeking to restore its powers. The inadequacies of its position were well recognized by its personnel, who sought review and amendment of its authorities. In the annual report of 1945,² the System requested three amendments: (1) An increase in maximum reserve requirements. This was requested in order that the considerable inflow of gold arising from a very favorable trade balance could be offset, as well as to renew the effectiveness of reserve variations as an instrument of control. (2) Authorization of a secondary reserve requirement against bank deposits to consist of excess reserves, short-term government securities, and/or vault cash. This power was requested so that the large holdings of government short-terms could be immobilized in the commercial banking system. Commercial banks had long since recognized that so long as the System supported the government security market rigidly, long-term securities were virtually as riskless and liquid as the short-terms. There was little reason, consequently, to prefer the short-terms in the portfolio, and some reason not to, since the yields on them were very substantially lower. These were being marketed rapidly, and the reserves thus obtained by the banks were being expanded as the banking system extend-

²Thirty-second Annual Report of the Board of Governors of the Federal Reserve System Covering Operations for the Year 1945.

ed loans in increasing volume and purchased long-term governments from the general public. Since the Federal Reserve System was virtually the only alternative purchaser of the short terms, it was forced to cooperate in the monetization of the debt so long as it was committed to support the government securities market. The Board of Governors insisted that it could continue to support the government securities market rigidly only by permitting continuous inflationary expansion of credit unless the federal government adopted severe tax measures, or the System were permitted to require banks to retain their short-term securities in their portfolios. (3) The System also asked that it be permitted to limit the proportion of long-term securities which banks held in their portfolios. This limit was to be a further means of discouraging the monetization of the debt through the purchase by banks of government securities from the general public.

These proposals were vigorously opposed by commercial bankers, generally on the basis that they "vested undue authority in the central bank," a criticism in which they were joined by the Federal Advisory Council. It was said, also, that the System had not yet utilized all of its control potential, in that it had persisted in supporting the government security market, and that under the circumstances expansion of its powers was inappropriate.⁹ The requests for authority to require secondary reserves, to raise reserve requirements further, and to restrict the amount of long-terms do not seem unreasonable. They certainly are less onerous restrictions of privilege than price and wage controls. The criticism that the System was not using its powers was still less warranted. It obviously was unjust to condemn the System for continuing a commitment upon which Treasury policy was founded unless the critics were willing for the System and the Treasury to become antagonists in the money market.

When less aggressive proposals for amendment of its power in the same vein of the 1945 report also were rejected, the System attempted to control the flow of credit by deviating from the rigid support formula which had been in effect since 1941. In 1947-8-9 there was a gradual relaxation of the rigidities of the rate pattern. Instead of assuring a stable market price for governments, the Federal Reserve System permitted minor changes in the interest pattern designed to discourage liquidation of short-term securities and also to encourage retention by the banking system of long-term governments in its security portfolios.

⁹For example, the criticisms in Riddle, J. H., "Interest Rates and Federal Reserve Policy," an address, Bankers Trust Co., New York, October 1946.

The Interest Rate Controversy

This change in Federal Reserve policy relative to the securities market precipitated a controversy with the Treasury concerning appropriate interest rates on government securities. The System insisted that in the absence of some direct compulsion, it must induce the banking system to hold short-term securities by permitting yields on them to rise to a more attractive level. It was necessary that these rates be attractive relative to yields obtainable on obligations of the general public. Moreover, in order to persuade banks to hold the longer term securities to maturity, it might become necessary to permit the yields on long-terms to rise, for then the banks might retain their long-terms rather than endure the book losses which sale at lower than acquisition cost would impose.

The Treasury obviously would be penalized by this program. A very substantial part of the government debt was in the form of short-term securities on which the greatest percentage increase in yield would be permitted. The Treasury also questioned the efficacy of increasing rates as a device of credit restraint.⁴ This is the sharp difference which has been given wide attention as "the interest rate controversy." The conflict has gone on "behind the scenes" since 1947, but until mid-1950 no serious break between the System and the Treasury occurred. Then, in August, an open disagreement was followed by open conflict in the money market. The details of the open market operations of the System during the August-October period are principally of technical interest, and for the purposes of this paper need not be presented. By them, the System forced the rate on short-terms up slightly, against the wishes of the Treasury.⁵

The nature of the controversy can best be understood by considering its two components separately. One concerns how the banks can best be restrained from converting their government securities into reserves. The other is the considerably more intricate question as to the effectiveness

"The Treasury is convinced that there is no tangible evidence that a policy of credit rationing by means of small increases in the interest rates on Government borrowed funds has had a real or genuine effect in cutting down the volume of private borrowing and in retarding inflationary pressures. The delusion that fractional changes in interest rates can be effective in fighting inflation must be dispelled from our minds." The Secretary of the Treasury in a speech before the New York Board of Trade, January 18, 1951, as quoted in "General Credit Control, Debt Management, and Economic Mobilization," materials prepared for the Joint Committee on the Economic Report by the Committee Staff, 82nd Congress, 1st Session, Joint Committee Print.

⁵For summaries of the open market operation of August-October, 1950, and their results see "General Credit Control, Debt Management, and Economic Mobilization, Joint Committee on the Economic Report, Joint Committee Print, 82nd Congress, 1st Session, and McEvoy, Raymond H., "The Federal Reserve-Treasury Controversy," Current Economic Comment, Vol. 12, No. 4, November, 1950.

of the interest rate as a device of credit control. On both counts the System and the Treasury appear to differ sharply. It will be simplest to appraise the validity of the opposing points of view by analyzing the contentions of the Federal Reserve System, since they have been presented on the whole more coherently than the views of the Treasury.

The efficacy of an increase in the interest rate in restraining the conversion of bank-owned government securities into commercial bank reserves depends on three conditions: that commercial banks' anticipations lead them to maintain secondary reserves of considerable magnitude; that the yields on government short-term securities are sufficiently high to induce the banks to maintain them as their principal secondary reserve items; and that uncertainties concerning the market price of long-term government securities will restrain the banks from using them as secondary reserve items, buying excessive quantities of them, or trading in them too frequently.

Condition one—that is, the banks' secondary reserve preferences—is not readily influenced by the Federal Reserve. Banks are inclined to hold larger secondary reserves when they expect attractive investment opportunities to develop, an increasing demand for loans, or a significant withdrawal of deposits. Thus, inflationary or deflationary anticipations lead them to accumulate secondary reserves. Anticipation of economic stability may lead to reduction of secondary reserves. The System thus would have to generate the very economic trend it was seeking to avoid in order to stimulate the banks to expand their purchases of secondary reserve items.

The System is in a position, however, to induce the banks to use short-term government securities as the principal secondary reserve component. If this is its objective, however, it must reward the banks with a yield equal or at least not too much lower than they can obtain on bills of exchange and similar instruments of the private community. It follows that the System must be in a position to raise the short-term rate pretty much at its discretion if it is to restrain the conversion of government short-terms into bank reserves, and able to change the yields on long-terms also in order to make trading in them undesirable for commercial banks.

So long as the private community's access to credit is not restrained through some other device than manipulation of the government securities market, in an environment of potential scarcity and great effective demands, the short-term rate in the private market is likely to move upward rather steadily. The System would be required to advance the yields on governments repeatedly if it wished to restrain their transfer from the commercial banking system to the Federal Reserve portfolio.

It is this rising rate trend which is feared by the officials of the Treasury. If the rates advanced very pronouncedly, with the associated depreciation in market value of outstanding long-term securities, it is suggested that investor confidence might be severely shaken, and that the general public might rush to liquidate its long-term security holdings in order to avoid further depreciation. In that case, the System would have no recourse except to support the securities market. Thus in its attempt to restrain monetization of the debt, the System would have stimulated debt monetization. A secondary but important consideration is that a steady increase in the rate ultimately would place a much heavier interest burden on the Treasury.

To these criticisms System officials have replied that there is less risk of such developments than there is of excessive expansion of Federal Reserve credit and commercial bank credit to the general public induced by an unrealistically low rate structure, and that the inflationary pressures associated with a cheap money policy also impair real security values significantly, and drive Treasury costs higher.

These divergent positions imply contrasting concepts of the effectiveness of variations of the interest rate in controlling the demand for credit. The advocates of rising rates must assume that moderate increases in the interest rate are effective in reducing credit demands, for otherwise they would share Treasury fears of sharp increases in the interest pattern.

There has been much difference of opinion among economists during the past two decades concerning the elasticity of credit demand. Members of the Federal Reserve System's staff themselves have questioned the efficacy of increases in the interest rate in controlling short and long-term credit.⁶ Certainly at a time such as this when speculative influences are strong and the faith in the stability of the dollar has been shaken, moderate increases in the rate of interest alone are likely to deter neither accumulation of inventories nor expansion of facilities. There is probably some rate at which credit expansion would be deterred, but it is questionable whether the increases to which the System would resort would be effective. Thus, although sympathetic to the System's position, one might

⁶For example the statement in the Annual Report of 1945: "However, there is no assurance that this much of an increase in the short-term rate (7/8 to 1¼) would stop further debt monetization and even less reason to suppose that it would be of value in combating inflationary dangers. . . ." and the statement: "Even with advancing rates, banks could afford to use Federal Government securities to replenish reserves. They could probably obtain higher rates from their customers, for rising interest rates are probably a very weak impediment to private credit demands." (p. 74, *Postwar Economic Studies*, No. 3, Public Finance and Full Employment, Board of Governors of the Federal Reserve System, December 1945).

agree with the Treasury that in order to achieve mechanical objectives—that is to restrain the banks from converting their short-terms into reserves—the System has asked that it be permitted to join in the race to increase costs; for an increase in the cost of credit which does not restrain credit expansion is comparable to a price increase in a scarce commodity market which does not restrict consumption.

The officials of the Federal Reserve System might agree with this generalization. Their advocacy of manipulation of the rate structure as a credit control procedure came after their request for other controls over credit had been rejected. Prior to 1947, it was the opinion within the System that maintenance of low interest rates was on the whole desirable even when resources were fully utilized and pressures for credit expansion were rather acute.

The disagreements concerning the interest rate reflect a far more significant conflict as to the relative values of monetary and fiscal actions. Experience with the aggregative controls of the central bank during the 1930's indicated rather conclusively that they provide only weak defenses against strong deflationary influences. Fiscal policy—direct Treasury action—has since been accepted as the appropriate anti-deflationary weapon. But it has been the assumption of monetary theorists that the aggregative monetary controls are effective and appropriate devices for topping a boom or restraining inflation. This is contended by nearly all economists.⁷ Of course, it is recognized that aggregative monetary controls cannot be effective in an environment in which the Treasury's urgent need for credit may force the central bank to deal generously with commercial banks' requests for reserves. This has been the experience always during periods of stress, and there is no reason to believe that the System authorities can be more adamant in the 1950's than they were in World Wars I and II.

The Federal Reserve itself is unwilling to rely exclusively upon aggregative controls. It has been a strong advocate of selective controls since early in the 1940's, and has stated repeatedly that fiscal actions are necessary complements to monetary controls in sustaining high rates of employment or in restraining inflation. The System makes its position clear—it believes it can preserve monetary order provided the Treasury and the Congress adopt an appropriate fiscal policy. It does not deny the Treasury a function in inflation control. Rather, it endorses cooperation.

The Treasury, on the other hand, has seemed to deny the effectiveness

⁷Most recently by the members of the Research and Policy Committee of the Committee for Economic Development.

or necessity of monetary controls. The Treasury could conceivably replace the monetary authority. If it could induce Congress to pass taxes which created and sustained a surplus, the manipulation of this surplus could be a greater deterrent to bank credit expansion than any credit tool now at the disposal of the Federal Reserve System. It is questionable, however, whether the Congress can be induced to sustain significant Treasury surpluses. Even if it could, there is a fundamental contradiction in allowing the Treasury, which is the greatest debtor and greatest spender in the community, to define the standards of credit. Division of responsibility—the Treasury as the debtor and borrower, the System as the lender and controller of monetary standards—seems the better conception.

The fact that there are conflicts between the Treasury and the System need not disturb us unduly. Disagreements between them are traditional, as one of the former Under-Secretaries of the Treasury has indicated.⁶ In fact, their conception implies a certain amount of conflict, and it is on the whole probably a desirable situation that the two organizations are not always in agreement.

What is disturbing is that in the current period when immediate restraint is imperative these conflicts seem irreconcilable, and that they are giving rise only very slowly to compromises upon which we can found a new conception of monetary and fiscal controls.

There are indications, however, of the directions in which compromises could be made. The proposals in the Board's 1945 Annual Report seem to me a significant advance over the conception of a single Reserve requirement. A suggestion from private sources that interest rates in the private market be required to bear a precise relation to rates on Federal Reserve credit also holds some promise, although the effectiveness of the interest rate as a restraining influence at this time is open to question. The very recent modification of the government security list to include a non-negotiable long-term security indicates recognition of a basic need to immobilize private savings during this period. These are appropriate steps, although they leave unsolved the very important issue of where the final authority over monetary and fiscal policy is lodged, and which of the two policies should take precedence.

Proposals for Fiscal and Monetary Policies

Whatever the resolution between the opposing points of view may be, it must dispose of three issues: (1) The ultimate authority over fiscal

⁶Leffingwell, R. C., "Our Fiscal and Banking Policy," *Barron's*, November 13, 1950.

and monetary policy matters when these contradict one another; (2) the character of the monetary tools upon which we should rely—that is, whether aggregative or selective, and whether indirect in the form of interest rate variations or direct as specific prescriptions of the character and direction of private credit; (3) the degree of flexibility of fiscal control tools and the extent of reliance upon them.

The current conflict might resolve itself were we to answer the question of whether the central bank should have the primary responsibility over the volume of private credit. This was certainly the original conception of the System's duties from which we deviated in the 1930's by establishing several alternative sources of credit flow, including the R.F.C. and the credit guarantee agencies, and during the 1940's by the commitment of the System to support the pattern of rates. If the central bank is to have responsibility over the supply of private bank credit, and at the same time must support government credit requirements, it must be permitted to impose compulsions upon the banking system which in some way require banks to absorb and retain significant quantities of government securities. Probably except for short periods the manipulation of the rate pattern is not a sufficient compulsion, and it would be appropriate, therefore, that the powers of the System be broadened to permit it to require reserves of government securities and to impose other limitations upon bank portfolios as requested in the Annual Report of 1945.^{*}

Strengthening the System would alone provide no cure, however, for the conflicts of monetary and fiscal policy. The Treasury's obligation, along with the Congress, to provide appropriate controls over government credit should be clearly recognized. The Federal Reserve System obviously cannot shoulder responsibility for restricting the government's access to credit. It would be undesirable for the System to refuse to support the government security market and the government's needs for additional credit on whatever terms the Congress and the Treasury decided, even though the System considered the decision extremely unwise. The Federal Reserve Board cannot set itself up as a power equal to that of the Congress. Yet that would be required were it to refuse to

^{*}For a discussion of desirable modifications of System powers see: Reply of the Chairman of the Board of Governors of the Federal Reserve System to the Questionnaire of the Sub-Committee of the Joint Congressional Committee on the Economic Report, November 1949; Reply of R. R. Gilbert, President, Federal Reserve Bank of Dallas to Questionnaire Addressed to the Presidents of the Federal Reserve Banks by the Sub-Committee of the Joint Committee on the Economic Report, Dallas, Texas, October 1949, and Szymczak, M. S., "Monetary Policy in a Free Economy," *The Federal Reserve Bulletin*, September 1950, Vol. 36, No. 9, Board of Governors of the Federal Reserve System.

assist the Treasury in financing expenditures which the Congress had authorized without providing counterbalancing income.¹⁰

What is needed is a sufficiently flexible authorization for the Treasury to enable it to adjust its income positions to the vagaries of government expenditures and national income. The provision of pay-as-you-go income taxation was a desirable first step toward greater flexibility. The Treasury in addition should have authority to vary tax rates within specified limits in much the same way that reserve requirements are variable. Greater attention also is necessary to the desirability of controlling the savings propensity. Perhaps authorization to permit certain types of savings as offsets against income taxes would give the Treasury the necessary authority to force conformance of the spending pattern to the needs of the national economy.

Adjusting consumption and savings to the changing requirements of the economy during the coming two or three years may prove extremely difficult. The rising productivity of the community may soon offset increasing military consumption. If meanwhile we have conditioned the economy to too rigid a standard of consumption or have deprived it of the means of a substantial increase in consumption, we may face difficult readjustments, particularly if the expanded productive capacity of the community becomes fully available to the civilian consumer. On the other hand, we should be careful to avoid a repetition of the inflation of 1945-48 when mobilization controls are terminated. A planned program of accumulating liquid assets for future use when needed to sustain consumption may be the answer to providing a sufficiently flexible economy now and in the future. The central bank's tools are not adequate for this purpose. Fiscal policy probably must provide the answer.

Finally, the recommendations of the Douglas Committee concerning the allocations of fiscal and monetary authorities should be broadened and strengthened.¹¹ The two authorities are so closely allied and depend so much one upon the other that neither should be given primacy. Yet, it is perhaps even more dangerous to leave their positions so ill-defined

¹⁰For an evaluation of the present policy-making procedures and proposals for reforms see: Back, George L., "The Federal Reserve and Monetary Policy Formation," *The American Economic Review*, Vol. XXXIX, No. 6, December 1949.

¹¹"That Congress by joint resolution issue general instructions to the Federal Reserve and the Treasury regarding the objectives of monetary and debt-management policies and the division of authority over those policies." (Report of the Subcommittee on Monetary, Credit, and Fiscal Policies of the Joint Committee on the Economic Report, 81st Congress, 2nd Session, Senate Document #129, January 23, 1950. Paul H. Douglas, Chairman.)

that neither knows the areas of its own responsibility. A clear Congressional statement of the responsibility of each—the central bank to control private credit—with adequate tools at its disposal; the Treasury to manage the public accounts and thereby affect significantly the composition of national income—also with adequate tools at its disposal—would go far to solve the current conflicts in monetary and fiscal policy. In addition, it certainly would be desirable and probably is very necessary that a superior authority to either, preferably other than the President, should be in a position to reconcile such difficulties between them as might arise.

Such changes as are made should be made hurriedly. Because of the hiatus in Treasury and Federal Reserve policies, the responsibilities over the price structure and the allocation of national income are falling into the hands of temporary price control and production control agencies. Although these perhaps have a part to play, they cannot do the greater job of maintaining appropriate relations between the structure of money and credit and the structure of physical production. They are as likely to cause irritations and disruptions of production as they are to achieve a more orderly and equitable price structure.¹⁸ Well conceived monetary-fiscal actions are more appropriate control instruments in our society. It is important that we strengthen and enlarge their functions. If the current controversy brings about this end, it will have been fruitful controversy indeed.

¹⁸"Paying For Defense," a Statement on National Policy by the Research and Policy Committee of the Committee for Economic Development, November 16, 1950: "The great advantage of this monetary-fiscal approach to the problem of inflation is that it can be effective in controlling inflation. It can remove inflationary pressure, not merely postpone its effects, not merely push it around from one commodity to another, not merely drive it from legal markets into black markets. And it can work while leaving the economy free to adapt itself to changing conditions and to grow. It thus preserves the vitality of the free economy to make the best possible correction of shortages—namely, an increase in supplies."

The Spanish Colonial Judiciary¹

LOUIS G. KAHLE

University of Missouri

Administration and law enforcement require the existence of courts to interpret and apply laws and administrative regulations. When the Spanish conquistadors who followed in Christopher Columbus' footsteps began to plant an organized society on American shores they soon felt the need of courts of justice. To meet this need they adopted and adapted the court system of Spain, gradually evolving a judiciary which, although closely related to that of the mother country, developed some unique features which were the direct result of the impact of a new environment on an old institution.² The highest court of appeal was the King, as represented by the Council of the Indies, although in later years appeals to this authority were made so difficult as to be nearly impossible. Within the Spanish-American colonies the highest court was the royal *audiencia* which came to be, for all practical purposes, the last court of appeals in almost all cases. At the provincial level the governors, *corregidores*, and *alcaldes mayores* had both original and appellate jurisdiction, while the principal court of first instance, the local court, was the *juzgado* presided over by an *alcaldia ordinario*. Two other points which need to be brought out by way of introduction are first, the fact that the Spanish structure of government did not include the concept of separation of powers and that, therefore, judicial officials frequently performed administrative and legislative functions as well; and second, the fact that, since the Spanish colonial system was unprecedented and had to be developed by experience, different institutions evolved in different parts of the Empire and, despite efforts to produce a unified system, wide divergences characterized the system until the end.

The local judiciary. The most important court of first instance, the

¹Although most studies of Spanish colonialism pay incidental attention to the judicial functions of various officials and institutions (See, for example, Clarence H. Haring's excellent institutional history, *The Spanish Empire in America* [New York: Oxford University Press, 1947]), no description of the colonial judiciary as a whole exists. It was for this reason that the following study was undertaken at the suggestion of Professor Carlos E. Castañeda of the University of Texas.

²It should be pointed out that Spanish colonial institutions, for the most part, represented modifications of existing peninsular institutions, and that in order to present a complete discussion it would be necessary to study in detail both the original Spanish institutions and colonial modifications. The *Laws of the Indies*, therefore, were special laws applicable only to the Spanish-American colonies and incorporating into the Spanish legal system the modifications made necessary by the radically different environment of the colonial empire.

court with which most of the inhabitants came in direct contact, was the local *juzgado*, always located in the *ayuntamiento* (municipal palace, frequently referred to as *cabildo*, where the *alcalde ordinario* dispensed justice. The term *alcalde* can be traced back to the reign of Alfonso V and was probably first used in the *fuero* (charter) of the city of León granted in 1020. Its origin apparently lies in the Arabic term *cadi*, meaning judge.⁸ In addition to his duties as a judge, the *alcalde* served as the chief executive of the city, presiding over the meetings of the *cabildo* (town council) and probably representing the city on ceremonial occasions. Usually there were two *alcaldes ordinarios*, although small villages might have only one, and, according to a decree of 1630, there could never be more than two.⁹ Where there were two *alcaldes*, one was called the *alcalde de primer voto* and the other the *alcalde de segundo voto*, denoting their relative standing in the *cabildo*. Judicially they were co-equal, as evidenced by a law which permitted an *alcalde* to sit in judgment over his colleague.¹⁰ In actual practice they seem to have divided the work between them, one hearing civil cases while the other heard criminal cases. In cases involving other municipal officials, such as *regidores* and *alguaciles*, for instance, they had, however, to sit together *en banc*. To relieve the *alcaldes* of some of their burdens, the *escribano* (court clerk) was authorized to take care of routine cases involving fines of less than twenty pesos, a procedure which might best be compared to that common to our own municipal traffic courts.¹¹

The *alcaldes* were elected annually by the *vecinos* (usually property owning residents) from among their own number for a one year term in a free and unimpeded election. In some localities, notably Peru, it became the practice to choose one of the *alcaldes* from among the *encomenderos* of the town and the other from among the town dwellers.¹² Originally, only citizens of the town could be elected to this office, but a law of 1554 permitted members of the local militia to be chosen provided they were resident landowners. Descendants of the original settlers and conquerors were given special consideration while royal officials and tax delinquents, those indebted to the royal treasury on any account whatsoever, could neither be elected nor take part in the election. In addition to requiring local citizenship, a law of 1536 provided that the

⁸Enrique Ruíz Guiñazú, *La magistratura indiana* (Buenos Aires: Facultad de Derecho y Ciencias Sociales de la Universidad de Buenos Aires, 1916), p. 283.

⁹*Leyes de Indias*, IV:x:1. (This abbreviated notation, to be used henceforth, indicates Book IV, Title x, Law 1, of the *Laws of the Indies*).

¹⁰*Ibid.*, V:iii:20.

¹¹*Ibid.*, II:xv:71 and V:x:1.

¹²Juan de Solórzano Pereira, *Política indiana* (Antwerp: H. y C. Vedussen, 1703), p. 387.

alcaldes should be honorable, capable, and literate persons, held in high esteem by the community. The vote was by secret ballot publicly counted by the *escribano* (clerk) of the *cabildo* and then recorded in the local archives, the election to be canvassed by the viceroy, president, governor, *corregidor*, or *alcalde mayor*, depending on the jurisdiction. Solórzano Pereira points out that the one year term was desirable for two reasons: first, that all of the citizens thus had an opportunity to hold such an honorable position, and second, that in case an incompetent happened to be chosen no great damage would result.⁸

In an effort to assure the integrity of the *alcaldes* a number of laws were passed which limited their activities. In the first place, they could not be re-elected except after an interval of two years, that is two terms, and then only if they had been found innocent of malfeasance by a *residencia*. They were specifically forbidden to take part in business, especially in the grocery business and other enterprises closely connected with the needs of the everyday life of the community. In mining areas the *alcaldes* must have no interest in or connection with a mining company. Although in the smaller towns, those which were not the seat of a provincial government, the *alcaldes* had certain administrative duties as chairmen of the *cabildos*, a law of 1573 forbade their intermeddling in administrative affairs, declaring these to be the concern of the governor or *corregidor*. Nevertheless, in the case of the sudden death of a governor or *corregidor* and in the absence of a previously appointed lieutenant-governor, the *alcalde* at the seat of the provincial government was to serve as governor *ad interim*.⁹ In like manner the position and jurisdiction of the *alcaldes* was safeguarded from untoward interference. Although the election of *alcaldes* had to be confirmed by a higher official and the *audiencias* could intervene in a dispute between the *alcaldes* and the *cabildo*, the *oidores* and the *audiencia* were specifically prohibited from interfering in any way in the elections of *alcaldes ordinarios*. Furthermore, cases which had begun under an *alcalde ordinario* could not be taken over by a higher official, such as a governor or *alcalde mayor*, unless evidence of negligence or maladministration of justice could be brought against the judge of first instance. A law of 1560 specifically restrained governors, *corregidores*, or *alcaldes mayores* from hearing civil or criminal cases pertaining to the jurisdiction of an *alcalde ordinario*. Nor could an *alcalde del crimen* interfere in the *visitas* which the *alcaldes ordinarios* were empowered to undertake. Those *alcaldes* who served in the vice-

⁸*Leyes de Indias*, V:iii:2,4,5-8 and 10; Solórzano Pereira, *op. cit.*, p. 386.

⁹*Leyes de Indias*, IV:x:11, IV:xxi:2 and 3, and V:iii:9,11, and 12.

regal capital were safeguarded from arrest by the *oidores* or *alcaldes del crimen* without the prior consent of the viceroy.³⁰

In addition to the general courts of first instance that have been described and certain special courts to be discussed later in the course of this brief study, there were three special types of *alcaldes ordinarios* which need to be considered: the *alcalde de la hermandad*, the *alcalde de ranchería de perlas*, and the native *cacique*, who was permitted to dispense a limited amount of justice among the Indians, always under the close supervision of a *corregidor*.

When the *Santa Hermandad*, a royal police force created to deal particularly with rural crime, was first put into operation, malefactors arrested by them were tried before the nearest *alcalde ordinario*, but eventually there was created a new office, the *alcalde de la hermandad*, whose incumbent was chosen by the *cabildo* and charged to deal with such cases. Not all towns and villages appear to have had such an official, since one of the laws of that period provides that where no *alcalde de la hermandad* exists the *alcalde ordinario* shall continue to hear such cases.³¹

Another special type of *alcalde* was the *alcalde de ranchería de perlas*. The *ranchería de perlas* was a semi-permanent village of pearl fishers whose residents moved along the coast as the needs and opportunities of the industry dictated. In order to provide these communities with a ready means of justice a law of 1579 provided that each *ranchería* was to elect an *alcalde ordinario* for a one year term, the candidate not to be an *alcalde* or *regidor* (councilman) elsewhere. A later decree provided that in case such a community happened to lie within the jurisdiction of two *gobernaciones* (provinces), the *alcalde* should be chosen alternately from the two.³²

In the Indian villages the *corregidor de indios*, an officer appointed by the Crown, was the principal dispenser of justice.³³ At first the *corregidor de indios* carried the full burden of this work, but a decree of 1549 provided that, since the Indians were to be considered human beings endowed with reason and since it was a prime objective of the Crown to educate

³⁰*Ibid.*, V:ii:14 and V:iii:19 and 21; Ruíz Guñazú, *op. cit.*, p. 288; Solórzano Pereira, *op. cit.*, pp. 386-389. It must be kept in mind that practice, particularly in the election or selection of *alcaldes*, varied widely and no generalizations ought to be made.

³¹Solórzano Pereira, *op. cit.*, p. 388; *Leyes de Indias*, V:iii:18.

³²*Leyes de Indias*, IV:xxv:3 and 8.

³³It should be noted here that the *corregidor de indios*, who presided over a settlement of natives, differed radically in functions from a *corregidor de españoles*, who presided over a district inhabited principally by people of European origin.

and prepare them for assimilation into Spanish society, the Indians themselves should, in so far as possible, dispense justice among themselves according to their own laws and customs. Thus the *caciques* were permitted to hear criminal cases in first instance and to try civil cases involving small amounts, always, of course, under the careful supervision of the *corregidor*. The system seems to have worked well, according to Solórzano Pereira, and many crowded dockets were quickly cleared by this means, not only because more justices were thus provided, but also because many of the Indians, afraid to speak before the Spanish officials, had previously delayed justice by every possible stratagem. In the vice-regal capitals, however, and for fifteen leagues around, cases involving Indians went directly to the viceroy and the *audiencia*.¹⁴

The provincial judiciary. Immediately above the *alcalde ordinario* were the provincial justices: the governors, *corregidores de españoles*, and *alcaldes mayores*. These differed from the *alcaldes ordinarios* in that they were appointive rather than elective and in that they were more concerned with administration than with the dispensation of justice. When the office of *corregidor*—in the original, Spanish peninsular, sense of the word—was first introduced into America there was a tendency to supplant the *alcalde ordinario*, but apparently the democratic instinct of the towns was sufficiently strong to resist the attempt.¹⁵ These provincial judges held office for either three or five years, depending upon whether they had been appointed in Spain or in the Indies. The appointee was usually a local citizen chosen by the viceroy or the King from a list of three candidates. Enjoined to hear appeals with kindness and mercy, they were to carry the "staff of justice" with them at all times as evidence of their royal office, to carry on court proceedings in as efficient and orderly a manner as possible, to supply counsel for those unable to provide their own defense, and to give first consideration to cases involving orphans, foreigners, widows, and destitute or helpless persons. To prevent delays in justice the *corregidor* was required to render a tentative decision within six days and a final decision within two additional weeks.¹⁶

Although the full extent of the powers of provincial judges is not clearly defined, we know that they were the highest judges within a given district or province; however, they could not, as we have already noted, interfere with cases being heard by local judges. They had jurisdiction in cases between Spaniards, in cases between Spaniards and Indians,

¹⁴Solórzano Pereira, *op. cit.*, pp. 116-117; *Leyes de Indias*, IV:iii:3 and V:ii:3.

¹⁵Solórzano Pereira, *op. cit.*, pp.388-389.

¹⁶Carlos E. Castañeda, "The Corregidor in Spanish Colonial Administration," *Hispanic American Historical Review*, IX (November, 1929), 458-459; *Leyes de Indias*, V:ii:10 and 11.

and, particularly the *corregidores de indios*, in cases between Indians. They were frequently sent out as *visitadores* to investigate the conduct of local officials and were instructed to co-operate fully with the *pesquisidores* (commissioned investigators) sent into the provinces by the viceroy. To assure that full co-operation would be granted, it was provided that a *pesquisidor* could not be appointed *corregidor* in a jurisdiction which he had just investigated. Provincial judges could hear appeals from lower courts in certain cases and seem to have shared the functions of the local judges in provincial capitals. In a law of 1540 it was provided that when governors, *corregidores*, and *alcaldes mayores* prepared to go to another town within their provincial jurisdiction they were to turn over pending cases to an *alcalde ordinario*.¹⁷

In some localities a provincial or appellate court for *hermandad* cases could be authorized at the discretion of the viceroy, who could order the appointment of a *provincial de hermandad* to hear appeals from the *alcalde de hermandad*. The *provincial de hermandad* was to have all the rights and privileges of an *alcalde mayor*, including the right to sit and vote in the *cabildo* of the city of his residence, and was to hold office in perpetuity, his successor to receive it by purchase or inheritance.¹⁸

The audiencia. The *audiencia*, the highest colonial tribunal, was essentially a court of appeals and was the only colonial court which normally had several judges. The first *audiencia*, that of Santo Domingo, consisted of four *oidores* (judges) and this number became pretty much of a standard, except in the largest jurisdictions, particularly the viceregal capitals, where the number of judges reached a peak of eighteen, twelve *oidores* (civil judges) and six *alcaldes del crimen* (criminal judges). The *audiencias* were presided over by either a viceroy, a captain-general, or a president, and although the *oidores* were considered the executive's advisers, constituting a sort of council of state, they were generally enjoined from interfering in administrative matters. On the other hand, the presiding officer was generally forbidden to take part in the judicial decisions of the *audiencia*, particularly if he was not a *ministro togado* (university trained lawyer). However, all had to sign the acts of the *audiencia*, and the viceroy or president supervised the *audiencia* to make sure that justice prevailed.¹⁹

¹⁷Cantañeda, *op. cit.*, p. 458; Ruíz Guinazú, *op. cit.*, pp. 294-299; *Leyes de Indias*, V:ii:20.

¹⁸*Leyes de Indias*, V:iv:1 and 3.

¹⁹Ruíz Guinazú, *op. cit.*, pp. 14-16 and 81; Charles H. Cunningham, *The Audiencia in the Spanish Colonies as Illustrated by the Audiencia of Manila* (Berkeley: University of California Press, 1919), p. 84.

The *oidores* were required to be well educated and learned professional lawyers, that is *ministros togados*. They were outranked only by the King, the viceroys, the captains-general, or the president of an *audiencia*. As evidence of the high esteem in which they were held, they were privileged to sit in the presence of the viceroy. Although doubtlessly the *oidores* guarded their rights and privileges well, it was not unusual for a properly qualified lower ranking *alcalde*, even *alcaldes ordinarios*, to be thus employed temporarily to help clear an overloaded docket.²⁰ Under such circumstances, of course, they were to disqualify themselves in cases which they had heard in first instance.

The jurisdiction of the *audiencia* was extensive. Since it was primarily an appellate court and, except for an increasingly limited number of cases that could be carried on to the Council of the Indies, the last court of appeal in America, its authority extended to the farthest limits of the presidency, captaincy-general, or viceroyalty, as the case might be. Furthermore, its appellate jurisdiction covered criminal and civil matters equally. However, it did exercise original jurisdiction in *casos de corte* (cases concerning the administration) and in criminal cases arising at the seat of the *audiencia* or within a radius of five leagues, although in actual practice such matters seem usually to have been delegated to special investigators, generally either *alcaldes mayores* or even *alcaldes ordinarios*. The *audiencia* also exercised supervisory authority over the lower courts. If an *alcalde* or inferior judge failed to comply with the instructions which had been laid down for his guidance, or if he could be shown to have abused his office or failed in the proper administration of justice, he could be held accountable by the regular *visitador*, or in more serious cases, by an especially appointed *pesquisidor*.²¹

The working procedure of the *audiencia* was rather clearly outlined. Meetings were held daily for four hours, of which one was to be spent hearing evidence and handing down decisions and the remainder in discussion. The viceroy, captain-general, or president acted as chairman, but he could not vote on legal matters unless he was *togado*. In the absence of the regular chairman, the *decano* (the eldest judge) was to perform that function. Under such circumstances the acting chairman had full authority, being able to assign judges to special duties, regulate the organization and administration of the *audiencia*, and even subdivide the *audiencia* into *salas* (chambers) in order to expedite the work. Decisions were to be reached by majority vote, the *fiscal* or an *alcalde* being called in to resolve a tie, except when the *fiscal* had prosecuted the case,

²⁰Ruíz Guinazú, *op. cit.*, pp. 248-249; Cunningham, *op. cit.*, p. 86.

²¹Cunningham, *op. cit.*, pp. 86, 90, 91, and 116.

which automatically disqualified him. Although a single *oidor* could constitute a quorum, and frequently did in criminal cases, usually two *oidores* sat together. In cases involving more than three hundred thousand *maravedís*, the concurrence of three judges was mandatory. All decisions had to be in writing and had to be signed by all of the judges, although the dissenting judges had the right of filing a dissenting opinion and of having their dissenting vote so recorded. In reviewing written decisions of lower courts, the *oidores* simply examined a summary or abstract of the case as it had originally been tried. If they approved the decisions they returned the original verdict to the lower court for execution. If they found an error they either reversed the decision or returned the case to the original jurisdiction for retrial. In reviewing oral decisions, seldom done, the judge of first instance had to appear in order to explain his verdict.²² In case of a dispute as to jurisdiction between *oidores* and *alcaldes del crimen*, where both existed, the presiding officer of the *audiencia* was to appoint a committee, consisting of himself and one representative of each of the contending parties, to resolve the dispute by majority vote, without appeal.²³

Since the *audiencia* dockets soon became heavily loaded and the Crown was interested in seeing certain cases tried as promptly as possible, two calendars were provided to govern the order of precedence of cases. On one calendar, which had the right-of-way over the other, were listed cases pertaining to the *real hacienda* (royal treasury), which always had the highest priority, infractions of royal ordinances and laws, cases involving the poor, probate cases, suits involving Indians, and others of like nature. On the other calendar the cases were listed in chronological order as received by the *audiencia*.²⁴

The *audiencia* being the highest, and in most cases the last, court of appeal in the Indies, we now need to say a few words about the appellate procedure. Cases tried in first instance by an *alcalde ordinario* could be appealed either to the *ayuntamiento* (town council) of the same town, to the provincial governor, *corregidor*, or *alcalde mayor*, or to the *audiencia*. Cases involving small fines, less than sixty thousand *maravedís*, could generally be appealed to the *ayuntamiento*, but they could not ordinarily be appealed beyond there. Fines of less than six pesos (2,700 *maravedís*) were imposed immediately, even pending an appeal. More important cases were generally appealed to a provincial court and could go from there to an *audiencia*, except cases tried in first instance at the

²²*Ibid.*, pp. 84-85, 88-90, and 116; Ruíz Guiñazú, *op. cit.*, pp. 63-67.

²³ *Leyes de Indias*, V:ix:3.

²⁴ Cunningham, *op. cit.*, p. 88.

seat of an *audiencia*, when the appeal could be carried directly to the *audiencia*. In civil cases involving less than two hundred pesos, later this figure was raised to six thousand pesos, the decision of the *audiencia* was final, as was the practice in practically all criminal cases. Criminal cases involving fines in excess of sixty thousand *maravedís* and those involving corporal punishment or imprisonment could be appealed to the *audiencia*, being turned over to the *alcaldes del crimen* if such existed. The routes of appeal were not always clearly defined and, like much of the judicial procedure, seem to have varied from time to time and from locality to locality. The Argentine historian, Ruíz Guiñazú, points out many special procedures which were made necessary in the La Plata area because of the difficulty of communication with the major seats of government in colonial South America.²⁶ The *audiencia* could also hear appeals in cases involving Indians which had been tried before the viceroy in first instance.²⁷

The Council of the Indies. Since the highest and final court of last appeal was the Council of the Indies it must be considered a part of the judicial structure, although its principal function, of course, was that of formulating colonial policy for the King and executing his decisions. While theoretically almost any kind of a case could be brought before the Council for reconsideration, in practice only a very limited number were heard and many of these involved points of administrative law. A law of 1542 prohibited the Council, in so far as possible, from taking cognizance of private disputes, and as the work of the Council grew heavier and heavier important financial restrictions were placed on those desiring to appeal cases before the King, in whose name the Council always acted. Thus, for instance, cases involving less than six thousand pesos could not be appealed from overseas, and even in cases which could thus be appealed, the appellant had to guarantee the costs of the hearing and was subject to a fine of four hundred ducats when the Council decided that the appeal was unjustified—half the fine to go to the Council and half to the defendant—and a fine of one thousand ducats when the decision of the lower court, i.e., the *audiencia*, was upheld, in which case a third of the fine went to the Council, a third to the defendant, and a third to the *audiencia* from which the case had been appealed.²⁸

The court of review in the Council of the Indies consisted of at least five judges. In case of the death or enforced absence of one, the remaining four could continue the case, but in case of the death or enforced ab-

²⁶Cunningham, *op. cit.*, pp. 88-89; Ruíz Guiñazú, *op. cit.*, pp. 18-19; *Leyes de Indias*, V:iii:1, V:x:2-4, and V:xii:13, 15, 17-20, and 23.

²⁷Ruíz Guiñazú, *op. cit.*, p. 245.

²⁸*Leyes de Indias*, V:xiii:1 and 6; Ruíz Guiñazú, *op. cit.*, p. 243.

sence of two, the King had to appoint enough additional judges to bring the number up to the required minimum. Agreement of three judges, a majority, was necessary for a decision in most cases, and unanimity was mandatory in cases where the penalty consisted of corporal punishment, fines above the minimum, or removal from office. In cases involving lesser amounts, such as minimum fines, the affirmative vote of two judges, if the others abstained, was deemed sufficient for a decision.²⁸

Special tribunals. In conclusion a few words need to be said about some of the special tribunals which existed in the Spanish colonies, such as the church courts, military tribunals, commissioned investigators, and others. Although the *audiencia* had jurisdiction over ecclesiastics in the colonies, trials, both criminal and civil, in cases involving members of the clergy were usually heard by the church *fuero* (ecclesiastical court) in the first instance. In order to minimize friction between ecclesiastical judges and lay judges a number of laws were passed outlining the relationship between the two. Ecclesiastical judges and secular judges were to co-operate with each other as much as possible, were to avoid disputes over jurisdiction, and, in order to promote the ends of justice, were to maintain as nearly the same standards as possible. Ecclesiastical judges had consistently been prohibited from interfering in the jurisdiction of royal judges. Secular judges were instructed to assist the ecclesiastical judges whenever necessary, especially in the interpretation of the law. Ecclesiastical judges were allowed to ask assistance of the *audiencia*, but this was to be by petition, not by requisition.²⁹ The *audiencia* could try criminal cases involving ecclesiastics and could hear appeals from the *fueros*. The authority of the *audiencia* also extended to disputes between religious orders and those between the government and the church or its representatives, to cases relating to land titles, to cases alleging abuse of Indians by friars, to cases involving the *real patronato* (royal patronage), and to cases of *recursos de fuerza*, i.e., cases in which a layman considered himself aggrieved by the action of an ecclesiastical judge and appealed to a civil judiciary for relief. An ecclesiastical judge was considered to have committed *fuerza* by: (1) assuming jurisdiction of a temporal case which did not rightly belong under ecclesiastical jurisdiction; (2) failing to conduct a trial in which he had legitimate jurisdiction according to established laws and canons; and (3) refusing to allow a justified appeal.³⁰

The military also had their own courts. The *alcaldes de fortaleza* or *castellanos* (governors of fortresses) could dispense justice in first instance

²⁸Ruiz Guinazú, *op. cit.*, p. 243; *Leyes de Indias*, V:xiii:5.

²⁹*Leyes de Indias*, I:x:1,2,11, and 13.

³⁰Cunningham, *op. cit.*, p. 411n3.

within their limited jurisdiction, but could not, at the same time hold office as a civil justice. Appeals were carried to the governors and presidents who also held the title of captain-general and might be carried from there on to the viceroy or to the *Junta de Guerra de Indias*, a special committee of the Council of the Indies that dealt with military matters. Viceroys, governors, and presidents who were at the same time captains-general could hear cases involving military personnel in first instance, appeals from such cases generally being made directly to the *Junta de Guerra*. In cases involving the military and civilians, the military courts had priority, except that appeals could be carried to the *audiencia* by the civilian party to the dispute, unless he happened to be living at a fortress, in which case he was considered under military jurisdiction.²¹

Pesquisidores were judges of special commission who were sent out to investigate serious complaints against public officials and to guard against serious miscarriages of justice. The *audiencias* were cautioned against taking this step except under the most serious circumstances, it being preferable for the governors, *corregidores*, and *alcaldes mayores* to deal with such problems. Once the *audiencia* had determined on such a course, it was beyond the powers of the viceroy or president to prevent it. The *audiencia* usually chose one of its own members for such an assignment and gave him authority to arrest culprits and either bring them before the *audiencia* for trial, or if the distance involved was too great, to try them at the scene of the crime and pass sentence. Appeals from cases tried by the *audiencia* might be carried to the Council of the Indies, while cases heard in the field by a *pesquisidor* could be appealed to the *audiencia* and, possibly, to the Council of the Indies. To guard against the cupidity and ambition of the *pesquisidores* it was provided that they could not succeed to the office of an official whom they themselves had found guilty and had punished by removal.²²

After the organization of the *mesta* (livestock owners association) in America, the *cabildos* were empowered to elect an *alcalde de mesta* in each locality where there were at least five members of the *mesta*, membership being mandatory for all owners of three hundred or more head of stock. The *alcalde de mesta*, who had the same powers as an *alcalde ordinario*, was, in addition to the general qualifications of an *alcalde*, required to know something of the livestock industry and be a stock owner. It was for this reason that, although re-election was ordinarily forbidden, it was provided that re-election was permissible in the absence of other qualified candidates. The *alcalde de mesta* was to hold court twice a year, on

²¹*Leyes de Indias*, III:viii:7 and 12 and III:xi:1,2, and 4.

²²*Ibid.*, VII:i:1,3-6,14, and 17.

January 16 and August 31, for a term of not more than ten days to hear complaints of cattle rustling and any other offense that might come up in connection with the industry. All stock owners were to be notified and were required to bring with them any stray stock that they might have in their possession so that these could be returned to their rightful owners. In case no complaints of cattle rustling were presented, the *alcalde* was to make an annual investigation on his own responsibility.²²

²²*Ibid.*, V:v:2-6, 12, 13, and 15.

The International Wheat Agreement

RALPH E. OLSON

University of Oklahoma

International planning in the economic field has behind it a long record of failure and a very meager record of success. Many well-informed people in the world, especially in the United States, are arguing loudly that such words as "planning" and "welfare" are dangerous words, somehow incompatible with individual initiative and group democracy. International economic planning, however, is very much with us; and there appears little likelihood that the world will ever return to a system of unregulated production and unrestricted trade, governed only by regional differentials in quality of earth resources, climate, technology and various other cost factors. Commodity controls, whether on a national or international level, are most likely to be acceptable to the general public when both producer and consumer interests are broadly represented. Economists and geographers have frequently pointed out how commodity controls on the international level have failed in the long run, either because some of the actual or potential surplus countries were unrepresented in the agreement, or because artificially high prices forced the consumer to seek substitute sources of supply or even substitute commodities. Evidently, if a commodity agreement is to succeed it must include advantages for both producers and consumers, and function with sufficient flexibility to meet new circumstances as they arise. The purpose of this paper is to review briefly the international situation of wheat, and to describe and analyze a new world-wide commodity arrangement which the writer feels has both geographic significance and a fair chance for success, the International Wheat Agreement of 1949.¹

Wheat is one of the most widely grown of cultivated plants and is a major crop in scores of countries from the equatorial highlands of eastern Africa to the coastal plains and sheltered valleys beyond the 60th parallel in northern Europe. A basic item in the diet of more than one billion people and a supplementary item in the diet of tens of millions more, wheat has been appropriately described as "a symbol of food throughout the world".² Of the total world production, which in recent years has amounted to about six billion bushels, from 10% to 20% ordinarily enters

¹The full text of the International Wheat Agreement was published in the United States Department of State, *Documents and State Papers*, Vol. 1, May 1949, pp. 784-794.

²Boals, Gordon P., "Wheat—A World Symbol", *Foreign Agriculture*, No. 1, Vol. XIII, February, 1948, p. 27.

the channels of world trade.⁸ Wheat is one of the most valuable commodities moving between countries, and both importing and exporting areas are subject to serious economic difficulties when undersupply, oversupply, excessively high prices, or excessively low prices affect the wheat markets.

Prior to the first World War the major areas producing wheat in surplus were eastern and southeastern Europe, the United States, Canada, Argentina, and Australia; while the major deficiency area was northwestern and central Europe, where a dense industrial population imported wheat and flour with relatively few trade hindrances. The war of 1914 to 1918 and the disturbed economic and political conditions which followed forced, or at least persuaded, several of the European importing countries to adopt policies which would lessen their dependence on foreign sources. Higher tariff levels, import quotas, special milling requirements, and direct subsidies to wheat farmers were among the most common techniques employed to achieve the goal of greater self-sufficiency. An increase of 30,000,000 acres in the wheat area of the United States, Canada, Australia, and Argentina in response to the high prices which prevailed when the European markets were suddenly available again would have brought on a disastrous price collapse during the 1920's had not disturbed political conditions in eastern Europe virtually removed Russia and the Balkans from the list of exporting countries.

With the bumper crop year of 1928-29, when world wheat acreage exceeded the prewar figure by over 25%, the disaster came. To a limited degree it was the cause of—and in any case it was accompanied by—a world-wide financial crisis which saw the average wheat price received by the United States farmer fall from \$1.04 per bushel in 1929 to \$0.39 per bushel two years later. The European importing countries, partly because of the sudden scarcity of foreign credit, sought to cushion the effects of the economic collapse on their own farmers by further tariffs and other restrictions on foreign grain. While the American wheat farmer was receiving \$0.39 per bushel for his crop in 1931, the average wheat price in Italy was \$1.49, in Germany, \$1.52, and in France \$1.72.⁹ The United Kingdom kept prices low but granted special trade favors to the dominions. By the spring of 1933, just prior to the new northern hemisphere harvest, wheat stocks in the four major exporting countries, stood at 787 million bushels, or more than was exported by those countries in either of the two preceding years. A feeble attempt at an International Wheat Agreement to reduce these surpluses and raise prices failed miser-

⁸United Nations Food and Agriculture Organization, *Commodity Series*, No. 1, March, 1947, "Wheat", Table C, p. iii.

⁹*Ibid.*, Table F. p. v.

ably. The failure of the wheat agreement was just one feature of the general failure of the World Economic Conference held in London in 1933.

Between 1933 and the outbreak of World War II in 1939, wheat prices rose again and surpluses diminished primarily because of a succession of partial crop failures in the United States and Canada. Unusually low rainfall in the wheat-growing plains areas of central North America from 1934 to 1936 reduced yields to the point where old reserves had to be called on to meet export commitments. During one of those years the United States was actually a net importer of wheat and wheat flour, buying more from Canada than was exported overseas.

World War II brought a recurrence of many of the World War I conditions in the wheat situation—stringent self-sufficiency measures in the German-dominated portions of the continent, greatly increased wheat acreage in the United Kingdom, and serious accumulation of wheat stocks in the western hemisphere surplus countries and Australia. Liberal credits and gifts to Europe after the war, however permitted the unloading of these accumulated stocks at favorable prices for the producers, and, spurred by the high prices, wheat acreage continued to expand through 1947 in the major exporting countries. A succession of above-average rainfall years and expanded acreage gave the United States an unbroken series of more than six billion-bushel crops from 1944 through 1949. Temporarily, we became the world's leading exporter of wheat, with 480 million bushels moving overseas in 1947. Prices were irregular. While Canada contracted to sell about 150 million bushels a year to the United Kingdom for \$1.55 per bushel,⁶ Canadian sales to other countries were allowed to follow the substantially higher prices of United States wheat. In 1947 and 1948 the export price usually quoted by Argentina was \$4.86 per bushel, and Argentine wheat moved to market along with the cheaper wheat of other exporting countries.

By early 1949 world wheat stocks were again accumulating, prices were beginning to slip as European agriculture recovered, acreage controls and price supports were once more being studied by governmental agricultural experts, and most of the world was in a mood to seek cooperative stability in wheat marketing. Drawing on the wartime experience of the Combined Food Board and the International Emergency Food Council, a series of international conferences on wheat culminated in Washington,

⁶No. 1 Northern in storage at Fort William, Port Arthur, Vancouver, and Churchill.

D. C., in March, 1949, with the announcement of an International Wheat Agreement signed by some thirty countries.⁶

Fifty-six countries were represented at the Washington conference, forty-eight by delegates and eight by observers, with additional observers from six international economic agencies. Even the Soviet Union, Poland, and Yugoslavia were represented by participants in the conference although none of the three adhered to the final agreement. Representatives of thirty-seven countries indicated a desire to participate in the Agreement as guaranteed importers, while five nations, Canada, the United States, Australia, France and Uruguay, agreed to guarantee wheat exports over the four-year period of the contract. Enough ratifications had been received by July 1, 1949, to put the Agreement into effect, and by the middle of November only four signatory importing countries (China, Colombia, Liberia, and the Philippines) and one signatory exporting country (Uruguay) had failed to ratify.⁷ The amount of wheat involved in the case of these countries was less than 4% of the 460 million bushels provided for in the Agreement. The United States Senate ratified the Agreement on June 13, by a voice vote after lengthy subcommittee hearings but only brief discussion on the Senate floor.

In essence, the International Wheat Agreement may be explained as a multilateral bulk-purchase contract, under which the signatory exporting countries guarantee to supply the signatory importing countries as a group specified quantities of wheat during the four-year life of the Agreement at a price not to exceed a fixed maximum per bushel. Importing countries signing the Agreement, on the other hand, guarantee to purchase specified annual quantities of wheat from the exporting countries as a group at a price not less than a fixed minimum price per bushel. For the four-year duration of the Agreement the maximum price which may be charged by the signatory exporters is \$1.80 per bushel, while the minimum price which must be paid by the signatory importers is to decline gradually from \$1.50 per bushel to \$1.20 per bushel over the four-year period.⁸

⁶Cale, Edward C., "The International Wheat Agreement of 1949", United States Department of State Bulletin, Vol. XX, April 24, 1949, pp. 507-511.

⁷To become effective on July 1, 1949, and applicable to the 1949 crop enough importing countries had to have ratified the Agreement to account for 70% of the total guaranteed imports and enough exporting countries to account for 80% of the total guaranteed exports.

⁸Prices are based on the cost in Canadian currency of No. 1 Manitoba northern wheat in bulk stored at Fort William or Port Arthur. An Advisory Committee on Price Equivalents met in London during the summer of 1949 to work out, considering such differentials as moisture content, storage costs, and transportation charges, the maximum and minimum prices necessary at other exporting points to make them the equivalent of those on No. 1 Manitoba Northern at the two Canadian ports on Lake Superior.

The International Wheat Council, with a permanent headquarters in London, is the administrative organ established by the signatory countries to administer the Agreement. Voting strength in the Council is based on each member country's volume of guaranteed exports or guaranteed imports, and a two-thirds majority is ordinarily required for action. Adequate provisions have apparently been made for accession to or withdrawal from the Agreement. Modification of the guaranteed export or import quotas, to avoid such a contingency as a serious depletion of wheat stocks following a bad crop year, in the case of exporting countries, or an excessive drain on a nation's monetary reserves, in the case of an importing country, is possible by appeal to the International Wheat Council.

Exporting countries are urged to maintain their wheat stocks at such levels that they are not likely to be unable to meet their export commitments in the case of a bad crop year. In the case of an unusually good year, on the other hand, they may request the Council to invite importing countries to increase their imports, although of course the latter have no obligation to do so. Adjustments which may become necessary in the export or import quotas as the result of withdrawals from, or new accessions to, the Agreement, or which become necessary for any other reason, are to be made on a pro rata basis among all the member countries.

For the exporting countries the export quotas were fixed largely in accordance with their proved ability to export over a period of years and their calculated ability to export in the future. Canada, the principal wheat exporter during the inter-war period was given the largest quota, slightly more than 200 million bushels. The export quota for the United States of 168 million bushels is less than half of our average export since 1945, but it is expected that for the next several years this country will continue to supply large quantities of wheat to Germany and Japan outside the Agreement. Furthermore, above average rainfall in the surplus wheat areas of the United States during the past ten years has given us higher yields than we can expect over a prolonged period. Australia, a country where the annual harvest fluctuates very widely, was assigned an export quota of 80 million bushels. Compared with the quotas for Canada, the United States, and Australia, the export quotas established for France and Uruguay are very small, both below 5 million bushels. Some of the wheat moving in international trade during the next few years will move outside the Agreement, such as that from Argentina, the Soviet Union, and perhaps other east European areas. Other grain not covered by the Agreement will be wheat from member countries available in excess of their guaranteed export commitments.

Practically all of the important wheat-importing countries have joined the Agreement but, based on their past trade records, many of them are

likely to buy some wheat in excess of their guaranteed import quantities. If the International Wheat Agreement is to succeed it is important that prices under the Agreement be kept sufficiently close to prices outside the Agreement so that undue political pressures will not result within the member countries. On the other hand, it appears likely to the writer that a declining volume of world exports, even if accompanied by falling prices, might persuade a non-member country such as Argentina to accede to the Agreement in order to find an assured export market for at least part of its available surplus. Such an eventuality, of course, assumes that the importing countries will abide by their import commitments under the Agreement even though wheat might be offered them by a non-member country at more attractive prices.

Argentina, although a participant in all of the International Wheat discussions since 1946, has so far chosen not to become a party to a multi-lateral wheat sales contract because she has up to now been able to dispose of her wheat at more favorable prices through bilateral arrangements. By December, 1949, however, the official export price for Argentine wheat had been lowered to \$2.19 per bushel, and in the summer of 1950 the Argentine government contracted to sell Brazil nearly 30 million bushels for \$2.11 per bushel. The Soviet Union disclaimed any interest in the international wheat discussions of 1947 and 1948, but joined the 1949 conference in Washington as a participant, and requested a sizeable guaranteed quota of wheat exports. The Soviet quota request was so high—20% of the total world exports, or a minimum of 75 million bushels a year—that the other exporting nations refused to accede to it. They did, however, welcome the Russian delegates at the conference and offered them a guaranteed export quota of up to 40 million bushels per year, which is more than Russia has exported in any year save possibly two or three, since 1914.

Among the nearly forty countries which have accepted an import quota under the International Wheat Agreement, the United Kingdom has made the largest commitment, guaranteeing to purchase from the member exporting countries more than 177 million bushels. Italy, India, the Netherlands, Belgium, Greece, Brazil, Austria, the Union of South Africa, and Ireland have each agreed to purchase from 10 to 40 million bushels per year under the Agreement. These countries and the twenty-odd others which have accepted import quotas hope that the Agreement means a more assured supply of wheat and wheat flour at a reasonable price during the years of relative crop shortage, which heretofore have been years in which the exporting countries, by withholding wheat from the market, have been able to force the prices up to unreasonable levels.

The International Wheat Agreement appears to have functioned fairly

well during the first year of its operation, although world wheat prices outside the agreement seem not to have fallen as fast as was contemplated. There have been a few changes in the membership of the International Wheat Council. Japan, joining in June, 1951, with an import commitment of approximately 18 million bushels, is the newest member. The United States Department of Agriculture on June 14, 1951, announced subsidy rates of 62 cents per bushel for wheat shipped from Gulf of Mexico ports and 59 cents per bushel on wheat leaving Atlantic coast ports under the wheat agreement. These subsidies represent the difference between United States domestic prices and guaranteed export prices under the agreement. In his budget message to Congress last January President Truman asked for \$77,000,000 to reimburse the Commodity Credit Corporation for costs of the International Wheat Agreement during the fiscal year ending in 1950. At the same time he estimated that those costs, due to the expected continuation of high domestic prices, would rise to \$117,000,000 in 1951 and decline only slightly from that level in 1952.

No country is under any illusion that the International Wheat Agreement is a solution to all the world's problems in wheat marketing. The editors of the London *Economist*, for instance, have already criticized it severely from the standpoint of Britain, the world's leading wheat importer.⁹ An editorial writer in the *New York Times* has called it "unrealistic" and a mere palliative to counteract the evil effects of excessively high domestic farm price supports.¹⁰ For importing and exporting countries alike, however, in the opinion of the writer, it offers real promise for the maintenance of more stable conditions in wheat marketing, and for the encouragement of non-discrimination and fair dealing in international trade policy. While there is undoubtedly some truth in the criticisms, President Truman was also speaking the truth when, in an address at the Fourth Session of the Food and Agriculture Organization, he said, "Stability is one of the foundations of peace. National emotions too often rise and fall with changes in commodity prices".¹¹

⁹"Poor Bargain in Wheat: International Wheat Agreement", *Economist*, Vol. 156 March 26, 1949, p. 577.

¹⁰"Planning at its Worst", *New York Times*, June 8, 1949, p. 28.

¹¹United States Department of State Bulletin, Vol. 19, December 5, 1948, pp. 700-701.

Book Reviews

Edited by H. MALCOLM MACDONALD

MERRILL JENSEN: *The New Nation; A History of the United States During the Confederation 1781-1789*. (New York: Alfred A. Knopf, 1950, Pp., 433, \$5.00.)

Merrill Jensen, Professor of History at the University of Wisconsin, has incorporated into this book the results of his extensive research in the Confederation Period of American History. He reemphasizes and elaborates upon the thesis expounded in an earlier work, *The Articles of Confederation*, that the picture of these years is not nearly so dark as most writers have assumed, nor were the great mass of the people of the new nation dissatisfied with the government established by the Articles. The history of these crucial years is viewed as fundamentally a struggle between two opposing political groups. The "federalists" desired to strengthen the central government without altering the essential character of the Articles which acknowledged the complete sovereignty of the states. On the other hand the "nationalists" wanted to discard the Articles and establish a strong central government with coercive powers over the states.

Although this work is directed primarily to the historian and the student, it should be read by everyone interested in the economic, political and constitutional development of the United States. For Professor Jensen has mustered an admirable array of facts to support his contention that the first constitution was not only adequate for the needs of the new nation but also offered an effective foundation for democratic development. Thus this study is a needed corrective to the John Fiske school of historians who have pictured the period as one of stagnation, bankruptcy, ineptitude and disintegration which forced the nation in 1787 to choose between a new constitution and inevitable anarchy and disunion.

The chief problems of these years and the efforts made to solve them are clearly analyzed. The author does not deny that there were obvious weaknesses in the Confederation government, but believes these could and would have been corrected eventually. More important were the achievements of the period. Notable progress was made in bringing order out of the chaos of Revolutionary finances, reviving trade, laying the foundations for an effective administrative system, and devising an effective method of disposing of and governing the western territory ceded by the states.

The author has written clearly and without undue bias an admirable account of American development from 1781 to 1787. It is hoped he will publish eventually a similar study on the framing and ratification of the Constitution.

University of Missouri

James L. Bugg, Jr.

O. W. WILSON: *Police Administration*. (New York: McGraw-Hill Book Company, 1950, Pp., 540, \$6.00.)

A span of thirty years separates the publication of Raymond Fosdick's *American Police Systems* and Wilson's book. While the purposes of these books are different—Fosdick's to appraise the status of police administration in the United States of 1920 and Wilson's to present the best practices in the field at the present time—a comparison of the two quickly reveals the long road that the police profession, if it can now be called that, has travelled in the intervening years. Some further indication of what has happened in police administration is the author's own personal experiences as a police patrolman, a police chief, a professor of police administration, and now a dean of a school of criminology.

A look at the table of contents of Wilson's book provides additional proof of the gap between the old-time "cop" and the present-day "officer." Common to both are the familiar tasks, for example, of patrol, criminal investigation, and vice control. But in the conduct of these operations we now find the police chief calling on scientific methods to aid him in patrol distribution, the investigation of complaints, and the control of vice—the potential point of infection in every police department. The present-day police executive must also concern himself with such things as long-range crime prevention programs, traffic engineering, juvenile delinquency, and the work of the several public welfare agencies. This is a far cry indeed from the traditional view of the job of police chief.

Packed as the book is with specific suggestions for the police executive, it nevertheless reflects the author's understanding as to what the executive can and cannot do. This is especially apparent in the consideration of vice control. Moreover, the author has maintained a healthy balance in his evaluation of all the police gadgetry—radio communication, "lie detectors," police laboratories, for example—which in some quarters has been accepted as the measurement of the effectiveness of police operations. Sight is not lost of the fact that these scientific aids must always be justified in terms of the service they render in mobilizing police effort in the prevention and suppression of crime.

University of Virginia

Weldon Cooper

JOSEPH B. KEENAN AND BRENDON F. BROWN: *Crimes Against International Law* (Washington: Public Affairs Press, 1950, Pp., 226, \$3.25.)

In this volume the authors present the bases of the position taken by the United States at the Tokyo war crimes trial. Mr. Keenan was, in fact, Chief of Counsel and Mr. Brown his Juridical Consultant at those trials. They hold that the international moral order is the cause, not the effect, of positive law, which must not, itself, be isolated from morals, and that the passing phases of the Tokyo trials are closely related to values in legal history and philosophy that are beyond the moral power of man to change or abolish. It follows, therefore, that world society had an inalienable and innate right to try the defendants for war crimes; hence, the Supreme Commander was merely acting in behalf of world society in the matter of the trials and the arrangements therefor.

In developing their study upon this broad moral basis the authors emphasize, not the facts, but the "jural purpose, legal rationalization, and sociological consequences" of the trials. The Court was not, for the most part, a military tribunal trying captured enemy officers for violations of the laws and customs of war but a tribunal to apply both those laws and customs and also the laws and customs of peace and humanity to those who were charged with having committed crimes and having conspired to commit crimes against mankind. Much reliance is placed upon natural law jurisprudence in proving that Act of State and *ex post facto* doctrines could avail the defendants nothing, and a careful historical examination is made of man's effort to brand aggressive war as an international law crime. A similar examination is made of the development of the concept of the crime of conspiracy and of crimes against humanity under international law. The authors show likewise the inapplicability in the present instance of the traditional loophole of Superior Orders, by which individual responsibility has heretofore usually been avoided. In similar manner the authors painstakingly defend the trial against any possible charge of unfairness in matters of procedure, rules of evidence, and the like.

It is a study distinguished by clarity, by the well-nigh fervid defense of moral law, and by utter sincerity in the belief that the trials vindicated international law and order and are the cells from which a fully developed specimen of international criminal law will develop, if and when mankind is morally and intellectually equal to the task.

That the authors' qualification of their forecast was warranted has been justified by events before, during, and after the trials. Among prosecutors and judges, both at Nuernberg and at Tokyo, were found representatives of Soviet Russia, very probably the greatest offender, in all respects cov-

ered by the trials, in the whole history of mankind. Korea is but one place where world communism and Soviet imperialism are daily committing these same offenses in their diabolic machinations—in the name of democracy, liberation of the masses, and anti-imperialism—to enslave mankind.

The University of Texas

Charles A. Timm

RAYMOND T. BYE (Ed.): *Social Economy and the Price System*. (New York: The Macmillan Company, 1950, Pp., 350, \$3.50.)

In his new book *Social Economy and the Price System*, Professor Bye (University of Pennsylvania) traces the function of a traditional price system in the hypothetical framework of an idealized collectivist economy. Given the author's assumptions, the economic analysis follows a strictly logical pattern and comes to the conclusions we might expect. Along the lines of theoretical analysis, this book adds nothing new to the existing literature on the subject, and dwells on the obvious with much detail. The subtitle of this book *An Essay in Welfare Economics*, is a misnomer since the author alters the accepted meaning of welfare economics to suit his own ideas.

The framework which the author assumes for his investigations is not a reflection of any existing set of social facts, but is purely the product of imagination. The "social economy" which the author assumes, is a socialistic Utopia, much more perfect than anything which has ever been found on this earth. He excludes from his discussion the empirical examples of collectivism found in Nazi Germany, Fascist Italy, or the Soviet State. The experience of Great Britain is excluded "until collectivism has been established there for half a century." (p. 350) There is no discussion of the factual basis of the author's Utopia in the entire book. He presents us in Chapter I with his own list of assumptions which includes the notion that a centrally planned, fully socialized society is by definition superior to the rather imperfect reality of present day America. This trend of thought is expressed repeatedly: "The preceding chapters have revealed many faults in the guidance given to our economy by the present operation of the price system. My general position has been, however, that the system would function satisfactorily if the institutional setting in which it operates could be improved." However, the text fails to show how human nature, responsible for our existing shortcomings, transfers itself into perfection in a socialist economy.

The completion of this book was assisted by a grant of the Rockefeller Foundation; this was a waste of money. To show that in a perfectly plan-

ned world a logically consistent technique such as price system will produce perfect results, is obvious and hardly needed 350 pages of explanation.

Oklahoma A. and M. College

R. W. Trenton

REV. JOHN F. CRONIN, S. S., *Catholic Social Principles*. (Milwaukee: Bruce Publishing Co., 1950, Pp., 803, \$6.00.)

Dr. Cronin's latest work offers a comprehensive explanation of the social teaching of the Catholic Church as it applies to American economic life. The author's background as a moralist, his academic record as a teacher and writer in the field of economics, his experience as arbitrator and consultant, and his official position as Assistant Director of the Social Action Department of the National Catholic Welfare Conference, make him ideally suited to the task of presenting these principles to the public at large.

Scholarly presentation is well balanced with popular explanation by prefacing each chapter with excerpts from pertinent documents, and the principles contained in them are discussed from the ethical point of view and from the aspect of economic application. Dr. Cronin carefully avoids an abstract or doctrinaire approach to his subject; he presents problems and principles for their solutions with an objectivity which should assure readers of all faiths and positions.

The book is divided into three parts. Part I—The Christian Social Order—discusses the nature of the social problem, the relation of the Church thereto, man and economic life, unsound philosophies of economic life, and the ideal social order. Part II—Social Principles in Economic Life—is an application of the principles to management, labor, property, and the state, with special consideration of such problems as the living wage, full employment, and labor unions. Part III—American Catholic Social Thought—is devoted to an appraisal of the various schools of social thought among Catholics.

The sources most commonly referred to are the three "social" encyclicals, *On the Condition of Workers* (1891), *On Reconstructing the Social Order* (1931), and *On Atheistic Communism* (1937). Dr. Cronin, however, does not limit himself to these basic sources, but includes references to papal statements both previous and subsequent to them, particularly those dealing with postwar developments, in addition to other authoritative documents such as the *Code of Social Principles* issued by the International Union of Social Studies. *Catholic Social Principles* is thus an excellent source-book for authoritative statements of the Catholic Church

on social, economic, and political matters of consequence to present-day problems.

The importance of the Catholic contribution to modern social and economic thought was voiced by the late Professor Joseph A. Schumpeter of Harvard University at the 1949 annual meeting of the American Economic Association. Professor Schumpeter advocated the study of the social teachings of the Catholic Church as contained in the encyclical letters of recent Popes and deplored the fact that these documents had not received the attention and study they deserve from American economists. The Federal Council of Churches of Christ in America has affirmed the striking parallelism between this body of Catholic social thought and their position which is contained in their official statement of 1948 entitled, "Basic Christian Principles and Assumptions in Relation to the Church and Economic Life." Dr. Cronin offers *Catholic Social Principles* "for the careful consideration of men of good will, of all faiths, who may wish to know the ideals of the Catholic Church," noting that "the problems of today are too serious for men to be divided through ignorance of others' principles."

St. Edward's University

Brother Kiernan Ryan, C. S. C.

E. MERTON COULTER: *The Confederate States of America, 1861-1865*. Volume VII of *A History of the South*, edited by Wendell Holmes Stephenson and E. Merton Coulter. (Baton Rouge: Louisiana State University Press and The Littlefield Fund for Southern History of The University of Texas, 1950, Pp., 644, \$7.00.)

In this, the seventh volume of *A History of the South*, the greatest living historian of the South and also one of the greatest of all time, has written the definitive history of that section of our nation that had the vain hope of establishing itself as a separate nation on the basis of the same principles which led thirteen of England's colonies in the Western hemisphere to revolt from the mother country and to establish themselves as a separate nation. Three volumes of this ten-volume series have preceded Professor Coulter's, and in all likelihood another volume will soon appear.

Nothing seems to have been overlooked for inclusion into this volume so far as I can perceive. The constitutional, social, economic, and political historians will all find their respective interests treated in this volume.

It is well to quote, and comment briefly upon, a paragraph in the preface which reads:

This volume could not, of course, do otherwise than concern itself with the whole picture of the South, thereby relegating the war itself to its proper relative position.

It is hoped that in these pages the war has not been made to recede too far from its high estate. Here was the opportunity as well as the necessity of writing a history of the South and not of the war principally. But, indeed, there was little, as will be seen, which was not related in some way to the war; and so in these pages, where the war is not, its shadow falls. With the space thus saved, it has been possible to light up some of the dark corners of the South during the war years.

After having read this book carefully I can say that the war was relegated "to its proper position," and I have the conviction that the author was guided by judicious selection and careful interpretation both of what to include and to exclude of military history in the light of the fact that the twelve volumes of the *Confederate Military History* published in 1899 contain, exclusive of appendices and biographical sections, 4237 pages. Nevertheless, the war "has not been made to recede too far from its high estate." Indeed, "in these pages, where the war is not, its shadow falls." Farther than this, Professor Coulter had found it "possible to light up some of the dark corners of the South during the war years."

Normally, one author would not write two volumes in such a series as this. The late Professor Charles W. Ramsdell was scheduled to be the author of this volume, but his death necessitated the selection of another author, and the choice fell fortunately on Professor Coulter. I feel certain that many readers will join me in Professor Coulter's implied wish that this volume could have been inscribed to Professor Ramsdell.

The University of Texas

Rudolph L. Bieseke

WILLIAM B. HESSELTINE: *Confederate Leaders in the New South*. (Baton Rouge: Louisiana State University Press, 1950, Pp., 147, \$2.50.)

Confederate Leaders in the New South is Professor William B. Hesseltine's most recent contribution to the published works concerning the field of Southern history. The material contained in it was originally delivered in one of the Walter Lynwood Fleming lectures in Southern history at the Louisiana State University. By publishing it in book form, the Press at that institution has enabled students of the South to learn more about Confederate leaders during the post-war period. Because of the paucity of books concerning the lives of prominent Confederates after Appomattox, Professor Hesseltine's work is particularly welcome.

In developing his subject, the author refutes the position taken by some Northern propagandists immediately after the Civil War in which they tried to picture the Confederate leaders as a slaveholding minority united for the purpose of protecting their "peculiar institution." On the contrary, he reveals that many of the Southern leaders were not slaveholders but came from entirely different walks of life. He shows that their

alleged "diabolic unity of purpose" simply did not exist and that their varied backgrounds were reflected during the war itself, as well as in the post-war period. Their attitudes toward their Northern conquerors ranged all the way from Robert E. Lee's acceptance of the *status quo* to Jubal Early's defiance of everything that had triumphed.

Professor Hesseltine emphasizes the loyalty and respect which Southerners retained for the Confederate leaders after Appomattox, which led to prompt rejection of carpetbagger, scalawag, and Negro officials. Even Jefferson Davis, after his imprisonment and ill-treatment in Fortress Monroe, regained much of his lost popularity and served as a rallying-point around whom the devotees of the Old South could gather. The author also proves that the big majority of Confederate civil and military leaders lived successful lives after the war, although some had to change their civilian vocations and enter new fields of banking, railroading, and industry. In the main, they adhered to the Democratic Party, although a few, such as James Longstreet and Joseph E. Brown, went over to the Republicans.

The book is written in an interesting style and is short enough to be read at one or two sittings. Indeed, one wishes that it were longer, in view of the need for more enlightenment on this subject. The lack of an index makes it somewhat difficult to locate a particular Confederate and the serious student of history might prefer a few footnotes. The author apparently forgot about Fitzhugh Lee when he stated on page 22 that "Only one U.S. army officer—General Joseph Wheeler—returned eventually to his original profession in the United States. . . ." It will be recalled that Fitzhugh Lee fought in the Spanish-American War also. On the whole, however, the book is relatively free from errors and makes enjoyable reading about a subject hitherto almost unexplored.

University of Richmond

Millard K. Bushong

HOWARD W. METZ AND CHARLES A. H. THOMPSON: *Authoritarianism and the Individual*. (Washington, D. C.: The Brookings Institution, 1950, Pp. 371, \$3.50.)

This work is an attempt to analyse the effect of totalitarianism upon the freedom and rights of individual citizens. The authors commence their survey by a discussion of Feudalism followed by successive chapters on Absolute Monarchies, Communism, Fascism, National Socialism and conclude with a discussion of what they call "Idealistic Controlled Communities in America". The latter category concerning itself with religious communities such as the Shakers and Mormons and non-religious

groups such as the followers of Owen and Fourier. The burden of the work is to demonstrate that totalitarian societies in any form and at any historic period inevitably result in the degradation of the individual by the State and the loss of that sense of personal worth essential to human progress. In this sense the work is negative, that is, authoritarianism in any form is presumably shown to be bad. Accordingly, by implication, a lack of authoritarianism in society and government is presumably good, but exactly to what extent authoritarianism is to be removed from society is left unanswered by the authors.

The book has value as general survey of the effects of authoritarian control on the social and institutional lives of individuals. It fails to deal with the psychological effects of such control on the individual *per se*. The chapters on modern totalitarianism, i.e. Communism and Fascism, are convenient and, on the whole, satisfactory summaries but contain nothing not known to the average student of modern history. The chapter on Feudalism shows a lack of understanding of the restraints and internal checks which operated within that system of social organization. The statement that feudal government was, "absolute as well as irresponsible" is not a valid generalization. In this reviewer's opinion the authors by attempting to prove too much have actually alienated the critical reader rather than won him to their thesis which seems to be, again by implication, the acceptance of the *laissez faire* concept of social organization.

The University of Texas

H. Malcolm Macdonald

KINGSLEY DAVIS: *The Population of India and Pakistan*. (Princeton: Princeton University Press, 1951. Pp. 263, \$7.50.)

Professor Davis's population study of India and Pakistan is the fifth major population undertaking by the Office of Population Research, Princeton University, under the directorship of Frank E. Notestein.

This scholarly study discusses in great detail this region's fight against death, questions related to human fertility, the problems of natural increase, the direction and extent of migration, and finally enumerates various aspects of the social structure and social change.

While the main objective of such a study is a thorough analysis of existing census material, and the extensive bibliography existing on this subject, the author's conclusions are proof of his full understanding of this complicated problem.

There is certainly general agreement with Professor Davis's conclusion that the demographic conditions of India and Pakistan are extremely unsatisfactory. This situation is due largely to a combination of poverty and high population density, a rapid growth caused by extreme fertility, and a lowered but still too great mortality. The author states that the obvious logical solution to these problems would be three measures, all instituted at the same time: a program of emigration, a sustained and vigorous birth control campaign, and a scheme for rapid industrialization. Professor Davis hopes that the effect of such a population policy would not prevent population growth—something which is impossible anyway—but would correct certain abuses at an earlier stage. He hopes that the total number to be cared for would be lessened, and the living standard would be raised. At the same time, the author realizes that there is little likelihood of such a comprehensive population policy at the present time. Enactment of all three goals will certainly affect many basic domestic and foreign policies of the two governments, not the least of these being the question of complete governmental control, if such a program should be enacted.

Professor Davis's conclusions are not encouraging. He admits that the demographic situation in India and Pakistan will probably get worse before it gets better. If the two governments successfully carried through a comprehensive population policy, the time lag would probably be lessened. The author believes that the main stumbling bloc for a successful comprehensive population policy is religious and family resistance to birth control and he presents a strong case for reducing the birth rate, an opinion the reviewer fully shares. Certainly over an extended period it is impossible to control death and not control births. The unwillingness to follow a comprehensive population policy, as outlined by the author, will result in greater poverty than would otherwise be the case, and a greater danger of catastrophe.

All students of world affairs and especially those who are interested in the social structures of foreign people, specifically the world's second and sixth most populated countries, India and Pakistan, will have to consider seriously the factual material and the conclusions reached by Professor Davis. This book is provoking, very readable, and of highest scholarship.

University of Texas

George W. Hoffman

JETER A. ISELEY AND PHILIP A. CROWL: *The U. S. Marines and Amphibious War*. (Princeton, N. J.: Princeton University Press, 1951, Pp., 636, \$7.50.)

Here is a keen analytical study of the development of amphibious warfare by the Navy and Marine Corps. The study was undertaken in 1947 at the request of the Marine Corps. However, it does not constitute an official history of that organization, and in the original agreement between the Marine Corps and Princeton University it was specifically stated that the Marine Corps would not alter the authors' findings or conclusions.

The first part of the book is concerned with development of amphibious doctrine and training for amphibious war. Herein the authors show that following World War I the Marine Corps, through a process of intuitive reasoning and somewhat crude experimentation, produced the basic doctrine for the amphibious assault. By 1934, the *Tentative Manual for Landing Operations* was published and the Marine Corps and Navy embarked upon a series of fleet landing exercises which ended with the outbreak of World War II. All this was done in spite of the general conclusion resulting from the Gallipoli fiasco in World War I that assault of a defended coast would be suicidal.

The second, and longer, portion of the book is a discussion of the practice of amphibious warfare in the Pacific from the early, somewhat fumbling steps at Guadalcanal through bloody Tarawa, the Marshalls, the Marianas, the classic assault upon Iwo Jima, and the final act at Okinawa. The authors analyze each major operation and show why each was conducted. In addition there is an excellent and convincing discussion of Pacific strategy which points out that the drive up the Central Pacific was the essential and dominant strategy for early victory over Japan and that that strategy inevitably required the amphibious assault.

This volume is a refreshing change from the axe-grinding, bombastic military literature that has glutted the market since 1946. It is also heartening evidence in this time of national danger that the United States possesses a body of fighting men who can produce as well as execute sound military theory.

This is a well written, carefully documented, dispassionately critical work that will stand high among the studies of World War II.

University of Texas

Fred E. Haynes

FERDINAND ZWEIG: *Economic Ideas. A Study of Historical Perspectives.* (New York: Prentice-Hall Inc., 1950, Pp., 197, \$2.25.)

The author writes with enthusiasm and as a philosopher who is deeply influenced by Karl Marx, Werner Sombart and Othmar Spann. He is full of thought provoking ideas, yet his presentation is neither thorough nor systematic because he crams into 194 pages too many items: a history of economic thought and institutions, psychoanalysis of economics, comparison of great economists, economic planning, the future economy and a glorification of the supereconomist with the great heart and the huge brainpower.

Lack of space allows me only to show some selected consequences of this overcrowding. In the beginning Zweig discusses the scientific value of a history of economic thought. Older theories, so he claims, have an eternal value as long as the assumptions on which they are based continue to operate. I think that this is a confusion of logical thinking and historical application. A theory is valid if it has been correctly deduced from given assumption. A theory can be applied if the assumptions can be found in reality. The "eternal value" has two completely different meanings: the logical validity and the eternal chance of application, i.e., a theory can be applied again and again if the assumptions can be found in all forms of economics. (Example, marginal utility.) Whether the eternal value is sufficient for the justification of the history of economic thought is more than doubtful. (See especially the works of Heimann and Starck.) The lack of sufficiency is typical also in his psychoanalysis of economists. Zweig claims that economists can be psychoanalyzed, but he does not say what the results of such an analysis may be.

The following comparison between different economists is quite interesting in a journalistic way; the scientific value of such a comparison is not quite clear. It is true that the higher lumina in economics were also interested in other fields of culture but to draw from it the conclusion that pursuits in economics occupy only a second place in sciences is at least farfetched. The great leaders in all other sciences were and are more than cultivators of one specialized field.

Finally his chapter on planned economy has to be mentioned. Here he assures us that planned economy and not "liberal-monopolistic" economy can achieve "full utilization of the national resources, including manpower." The excellent defenders of free competition, Barone, Ropke, Hayek, and Mises and their arguments are not mentioned, neither are the very important discussions about planning between them and the great socialistic economists, Oscar Lange, Ragnar Frisch, and Heimann.

If I may venture to give advice to the future author Zweig, I would think it sensible to write one book about each one of the problems touched in this book. "*Qui trop embrasse, mal étreint.*"

University of Wyoming

Emil Kauder

LESTER ASHEIM (Ed.): *A Forum on the Public Library Inquiry*. (New York: Columbia University Press, 1950, Pp., 281, \$3.75.)

The Social Science Research Council was asked by the American Library Association in 1946 to conduct a study of the American public library in social rather than professional terms under the directorship of a social scientist. The Carnegie Corporation gave \$200,000 to finance the study and Dr. Robert D. Leigh was appointed to direct the study. The work proceeded and in 1949 the first volume of the Inquiry reports was published. To date six volumes of reports have been published by the Columbia University Press and a seventh volume is still to be published. Of the seven volumes only one was written by a librarian. The Inquiry was planned deliberately as a study by "outsiders" who used the disciplines of the various social sciences in their examination of the public library.

Because of the importance of this broad study of the public library and of the wide interest in the study, the volumes of the Inquiry were selected as the subject matter for the 1949 annual conference held at the Graduate Library School of the University of Chicago. Ten sessions of the conference were held: seven were devoted to consideration of the individual volumes of the Inquiry, two sessions to the general report, and the final session to a summary of the conference. Each of the seven volumes of the Inquiry was here presented or analyzed by three people: by a librarian, by a nonlibrarian expert in the subject, and by the author of the volume. The title under review is the collection of these papers presented at the Chicago conference. The papers were edited by Lester Asheim, assistant professor, Graduate Library School.

Dr. Asheim warns that the volume he edited should be accepted as a supplement to the Inquiry reports and not used as a substitute for them. The volume does not stand alone but serves as an excellent review of the Inquiry reports and in addition supplies related but different points of view on most important points covered.

The last chapter in the Asheim book, "Final Comments," by Dr. Leigh was written several months after the Chicago conference and after the Inquiry had been discussed at seventy sessions of regional library con-

ferences across America from Vancouver to Florida and from Fort Worth to Atlantic City. Three sentences from this chapter might be considered his summary of the entire Inquiry: "In the present state of knowledge, no inquiry can be completely comprehensive, balanced, or definitive. Each is merely one step on the long road we travel toward more rational fashioning of our institutions. The reality and honesty of discussion of the Inquiry findings by the librarians during and since the library conferences that began a year ago at Chicago encourage me to believe that that particular inquiry may be recorded as one more step forward on that road."

The University of Texas

Esther L. Stallmann

JOHN KNOX: *History of the Reformation in Scotland*. Edited by William Croft Dickinson. (New York: Philosophical Library, 1950, 2 Vols., Pp., 872, \$15.00.)

Mr. W. Croft Dickinson has provided us with a scholarly and modernized edition of John Knox's *History of the Reformation in Scotland* first published in 1586-7. In doing so Mr. Dickinson has not robbed us of the pungency and vigour of Knox's style but by modernizing the spelling and by a judicious use of footnotes to explain archaic words has given us a readable and at the same time an authentic edition of the only history of the Reformation written by one of its makers. The editor has wisely transferred certain interloped documents, which traditionally have been carried in the text, to the appendix of the second volume where they are available for reference without interfering with the flow of Knox's narrative. Included also is the Fifth Book of the *History* written by Knox's continuator. The work is exceptionally well footnoted, documented, and indexed and shows throughout the careful scholarship of an editor thoroughly familiar with his subject and devoted to its exposition.

I know of no more successful way of grasping the religious, political and social temper of the reform period in Scotland than by reading Knox's *History*. Here is laid before us the tortuous intrigues of the Scottish nobles, the full zeal of Knox and the reforming party, and the futile struggles of the defenders of the Old Faith to stem the tide of Calvinism. The very weaknesses of Knox himself are unwittingly displayed in his own words and acts and the reader is left with a sense of having lived history in a manner impossible to obtain by the perusal of the more conventional histories of the time. For this reason, if for no other, Mr. Dickinson deserves our thanks for making available his new edition of Knox's famous work.

The University of Texas

H. Malcolm Macdonald

BRUCE A. AND ESTHER B. FINDLAY: *Your Rugged Constitution*. (Palo Alto: Stanford University Press, 1950, Pp., 281, \$3.00.)

Bruce and Esther Findlay, with the assistance of the illustrator Richard Dawson, have produced what they call a "visual translation" of the Constitution of the United States. They present the federal government as the builder commissioned by the people of the United States to erect and maintain the House of Freedom in which we live. The constitution is printed clause by clause, in large, easy to read type, with a cartoon as well as written commentary explaining each clause. The comments are well written, simple, and devoid of legal verbiage, so that almost anyone should be able to understand them. The best feature of the book, however, is the cartoons. They are not only clever, but in some instances explain the constitutional clauses in question so well that other explanation is hardly necessary.

In these days when an understanding of the constitution by the general public is so important, as indeed when has it not been, this little book should be ideal for farm groups, labor unions, women's clubs, student organizations, or any group needing a sound, yet elementary outline of our national government. Due to its extreme simplicity, which of course is one of its virtues, the volume may not be of too much benefit to college level classes; although in those courses where only a cursory examination of the national constitution is called for instructors would do well to examine a copy. It should be excellent for the high school grades.

Despite its unfortunate title, the volume is the best thing of its kind this reviewer has seen.

The volume is the first in the American Ideals Series of the School of Education of Stanford University.

Tarleton State College

Dick Smith

Other Books Received

- Commonwealth of Kentucky: *Social Security and a Kentucky Retirement Plan*. Information Bulletin No. 8. (Lexington: Legislative Research Commission, 1951, Pp., 22, NP.)
- Commonwealth of Kentucky: *Registration and Purgation Laws of Kentucky*. Information Bulletin No. 5. (Lexington: Legislative Research Commission, 1951, Pp., 53, NP.)
- Cuber, John F.: *Sociology: A Synopsis of Principles*. (2nd Ed.) (New York: Appleton-Century-Crofts, 1951, Pp., 645, \$4.50.)
- Cuber, John F. and Harper, Robert A.: *Problems of American Society: Values in Conflict*. (Revised Ed.) (New York: Henry Holt and Co., 1951, Pp., 446, \$3.90.)
- Dallin, David J.: *The New Soviet Empire*. (New Haven: Yale University Press, 1951, Pp., 216, \$3.75.)
- Ditz, C. W.: *British Coal Nationalization*. (New Haven: E. W. Hazen Foundation, 1951, Pp., 92, NP.)
- Ellis, L. H.: *A Short History of American Diplomacy*. (New York: Harper and Bros., 1951, Pp., 604, \$5.00.)
- Enke, Stephan and Salera, Virgil: *International Economics*. (2nd Ed.) (New York: Prentice-Hall, Inc., 1951, Pp., 724, \$5.00.)
- Gayer, Harriss and Spencer: *Basic Economics: A Book of Readings*. (New York: Prentice-Hall, Inc., 1951, Pp., 624, \$2.95.)
- Goswell, C. B. and Holland, L. M.: *State and Local Government in the United States*. (New York: Prentice-Hall, Inc., 1951, Pp., 619, \$5.00.)
- Hill, Stoke and Schneider: *The Background of European Government*. (3rd Ed.) (New York: Rinehart and Co., 1951, Pp., 584, \$2.75.)
- Holborn, Hajo: *The Political Collapse of Europe*. (New York: Alfred A. Knopf, 1951, Pp., 207, \$1.85.)
- Holloway, Wm. V.: *State and Local Government in United States*. (New York: McGraw Hill Co., 1951, Pp., 460, \$3.75.)
- Institute of Public Affairs: *Municipal Incorporation and Organization in Texas*. (Austin, Institute of Public Affairs, University of Texas: 1951, Pp., 31, \$.75.)
- Marshall, Max S.: *Two Sides to a Teachers Desk*. (New York: Macmillan Company, 1951, Pp., 284, \$3.00.)

- Menged, Carl: *Principles of Economics*, Translated by James Dingwall and B. F. Hoselitz. (Glencoe, Illinois: The Free Press, 1951, Pp., 328, \$5.00.)
- Moehlman, C. H.: *The Wall of Separation Between Church and State*. (Boston: The Beacon Press, 1951, Pp., 239, \$3.00.)
- Nash, Arnold S. (Ed.): *Protestant Thought in the Twentieth Century*. (New York: Macmillan Company, 1951, Pp., 296, \$3.75.)
- O'Donnell, Bernard: *The Old Bailey and Its Trials*. (New York: Macmillan Company, 1951, Pp., 226, \$3.00.)
- Padover, S. K. and Lasswell, Harold: *Psychological Warfare*. (New York: Foreign Policy Association, 1951, Pp., 62, \$.35.)
- Samuelson, Paul A. *Economics: An Introductory Analysis*. (2nd Ed.) New York: McGraw-Hill, 1951, Pp., 762, \$5.00.)
- Shannon, F. A.: *America's Economic Growth*. (3rd Ed.) (New York: Macmillan Company, 1951, Pp., 967, \$6.00.)
- State of New York: *Secondary Schools Art*. (Albany, New York: State Education Department, 1951, Pp., 166, NP.)
- Thomas, Ivor: *The Socialist Tragedy*. (New York: Macmillan Company, 1951, Pp., 249, \$2.75.)
- Truman, David B.: *The Governmental Process*. (New York: Alfred A. Knopf, 1951, Pp., 544, \$5.00.)
- United States Government: *State Court Injunctions*. (Washington: U.S. Government Printing Office, 1951, Pp., 118, \$.30.)
- United Nations: *Freedom of Information. Vol. II: Texts Communicated by Governments*. (New York: Columbia University Press, 1951, Pp., 261, \$3.50.)
- University of Puerto Rico: *Manual of Government Agencies in Puerto Rico*. (Executive Branch) (San Juan: University of Puerto Rico, 1950, Pp., 341, NP.)
- Witney, Fred: *Government and Collective Bargaining*. (New York: J. P. Lippincott Company, 1951, Pp., 741, NP.)

The Association

Minutes of the Meeting of the Executive Council, Austin, March 22, 1951

The Executive Council met at 8:00 P.M. on March 22, 1951, at the Driskill Hotel. All members were present except Vernon G. Sorrell, Edwin J. Foscoe, Reginald Rushing, Harold Heck, Virginia Bradley, and William L. Kolb.

Under the leadership of President Waller, the Council discussed the items in the following agenda:

1. The work of the committee on endowment, institutional memberships, and individual memberships
2. Report on the work of the general program chairman
3. Exhibits program
4. Advertisement on convention program
5. Expenses of members of the Executive Council
6. Guest speakers
7. Sites for future meetings
 - a. Possibility of meeting at Baker Hotel in 1952 and 1953
 - b. Possible change from Easter date
 - c. Possible use of college or university facilities

The Executive Council voted unanimously to recommend to the incoming Executive Council that the meetings in 1952 and 1953 be held at the Baker Hotel in Dallas at Eastertime if satisfactory arrangements can be made there.

In the absence of Cortez Ewing, chairman of the Endowment Committee, Joseph Pray made a report on the study some members of the committee had made on the desirability of a trust fund being established in order that gifts made to the work of the Association may be deductible by the donors for income-tax purposes. President Waller authorized Mr. Pray to meet with the Endowment Committee as acting chairman on March 23 to define the purposes of the proposed trust agreement. A report is to be made to the Association or to the Executive Committee as early as feasible.

August O. Spain presented a report on the implications of proposals on teacher education recently made by or through the Texas Educational Agency. Though a formal vote was not taken, it seemed to be the consensus that the matter in question was of special interest to Texas and that the Association should not take any action relating to the proposals.

The Council adjourned.

Minutes of the General Business Meeting, Austin, March 24, 1951

The minutes of the general business meeting of April 8, 1950, as printed in the June 1950 issue of the *Quarterly*, were approved without being read. The minutes of the Executive Council meeting held on March 22, 1951, were read.

The report of the Constitutional Amendments Committee was made by its chairman, O. D. Duncan:

The Committee recommends that the Executive Council during the year 1951-1952 prepare for consideration of the Society at its next annual business meeting (not later than the Spring of 1952) an amendment to Article IV—Officers—stating that all elected officers shall (1) enter upon the discharge of their duties at a definite time, and (2) that they shall hold said offices and discharge all duties and exercise all prerogatives incident thereto until their duly elected successors have been inducted into their respective offices.

(Note: This recommendation grows out of the fact that in time of war, national peril, or emergencies, it is sometimes impossible for the Society to meet and transact its business. Such a period did exist from 1942 to 1946, forcing officers to retain their posts without any authorization other than their own best judgments. That they were willing to do so upon their own volition was the good fortune of the Society.)

The Committee further recommends that the Executive Council prepare and offer an amendment to Article V—Meetings—authorizing the Executive Council to meet and transact any business of the Society which may require attention at such times as national emergencies may make the annual meetings of the Society as a whole impractical or impossible.

The committee recommends that the Constitution be kept as simple in form, as practical in nature, and as comprehensive in scope as possible at all times in the interest of harmony and democratic procedures.

The Committee discussed the question of how officers should be elected, whether by mailed ballots as is being done by numerous national societies, or only by voice vote of members in attendance at annual meetings. The mailed ballot requires burdensome work for the secretary, while the traditional method of election disfranchises those who cannot attend meetings. This was to recognize and call attention to the possibility that this may become an issue in the not too distant future. No recommendation is offered on this point.

Since some national societies now elect their presidents a year in advance to give them an opportunity to serve on the executive committees before assuming the functions of their offices, the Committee felt that this matter should be brought up for deliberation during the coming year. No recommendation is offered on the adoption or rejection of the proposal.

Since this Society is a rather loose confederation composed of several more or less closely or distantly related constituent bodies, sections, or specialized societies, its greatest single constitutional need is for provision of some means to guarantee a succession of official heads or leaders whenever national peril or any crisis interferes with the normal workings of the Society.

The following report of the Audit Committee was made by Alvin Good, chairman, and it was approved by formal vote:

The Audit Committee has checked the records of the treasurer for the year March 16, 1950, to March 15, 1951, and found them well kept and in good order. The committee added the receipts from individual membership fees, library subscriptions, payments for display space at the convention, advertising in the *Quarterly*, sale of back issues of the *Quarterly*, and institutional membership contributions. The sum of these amounts is the same as the deposits made in the bank. In addition to these amounts, the University of Oklahoma contributed \$225.00 to the costs of the publication of the *Quarterly*. The amount was paid directly to the publishing company, and does not appear in the bank records of the Association. The expenditures were checked with the supporting vouchers and the cancelled checks in payment of them. Three checks had not been cleared through the bank and consequently the payment of these bills were checked only with the stubs of the checks in the check book.

The total receipts of the year, including the cash balance of \$56.87 on March 16, 1950, amounted to \$3,335.67. The total expenditures amounted to \$2,603.57, leaving a balance of cash on hand of \$752.10. This amount checks exactly with the amount shown in the last bank statement when the sum of the three checks not cleared is deducted from it.

Accompanying this report is the treasurer's statement of the accounts for the year March 16, 1950, to March 15, 1951:

Cash Balance on March 16, 1950		\$ 56.87
Receipts:		
Individual memberships	\$1,445.00	
Library subscriptions	746.80	
Institutional memberships	\$ 335.00	
Contribution of Univ. of Oklahoma to printing of <i>Quarterly</i>	225.00	560.00
		<hr/>
Back issues of <i>Quarterly</i>	26.00	
Display space at Convention	300.00	
Advertising in <i>Quarterly</i>	221.00	
Total Receipts		\$3,298.80
Payments:		
Printing, postage, and mailing list charges on <i>Quarterly</i> :		
March 1950 issue	550.89	
June 1950 issue	572.85	
September 1950 issue	529.72	
December 1950 issue	477.82	2,131.28
		<hr/>
Expenses of Secretary-Treasurer to Houston Convention and to Austin for selection of 1951 convention city	111.40	
Printing of 1950 convention program	101.00	
Telephone, telegraph, stationery, and office supplies for Secretary-Treasurer	32.33	
Postage used by:		
Secretary-Treasurer	30.00	
Book Review Editor	26.30	
President Foscue	7.20	
Program Chairman Watson	18.78	82.28
		<hr/>
Expenses of 1950 General Program Chairman	23.78	
Bank debit on bad checks	9.00	
Charge for display space by Rice Hotel	50.00	
1950 Convention badges	43.50	
Refunds on memberships	6.00	
1950 Convention signs	13.00	
		<hr/>
Total Payments		\$2,603.57
Excess of Receipts over Payments for the Year		\$ 695.23
Cash Balance on March 15, 1951		\$ 752.10

The following report of the Resolutions Committee, as presented by J. D. Bragg, chairman, was approved:

The membership of the Southwestern Social Science Association is indebted to its officers and leaders for the advancement of the organization's welfare during the past year and for the success of the 1951 annual meeting. The Committee on Resolutions recommends that a formal vote of thanks be extended to President J. L. Waller for his able administration of the affairs of the association; to Professor George T. Walker for his faithful services as Secretary-Treasurer; to Professor Oliver Benson for his scholarly work in editing the *Quarterly*; and to Professor Wade Hartrick for his leadership in planning the program.

The Committee also recommends that a vote of thanks be extended to Chancellor James P. Hart of the University of Texas for his scholarly address at the conference dinner; to Professor John A. White, Chairman, and the other members of the Local Arrangements Committee; to the exhibitors; to the Austin Chamber of Commerce for its cooperation in making this meeting a success; to the Driskill and Stephen F. Austin Hotels for excellent services and many courtesies; and to the Press for giving the meeting publicity.

Keith Davis, chairman of the Institutional Membership Committee, made an oral report on the status of the drive for institutional memberships in the Association.

W. M. Pritchett made an oral report for the Endowment Committee. A motion was made, seconded, and passed that the present committee continue its study and planning and that it be authorized to solicit and accept funds for the general purposes of the Association. Mr. Pritchett asked that members of the Association submit names of prospective donors to the chairman of the Committee.

The following report on the *Quarterly* was presented by the editor, Oliver Benson, and accepted by formal vote:

The publication year June 1950-March 1951, representing Volume XXXI of the *Quarterly*, is not quite complete as of the time of this report, since the March 1951 issue is still in press, due to appear within a few days. The figures below, however, apply to the entire volume, with estimates where necessary based on proofsheets for the March issue.

During the publication year, twenty articles were published in the *Quarterly*. Of these, eighteen were by authors from the Southwest—twenty authors from the region being represented—and two by authors from outside the region. Eleven articles dealt with topics chiefly of regional subject-matter, while nine were on general subjects. The several disciplines were represented in the articles as follows:

Agricultural Economics	5
Business Research	1
Economics	3
Geography	2
Government	4
History	1
Sociology	4

The book review section, reflecting the excellent editorial supervision of Dr. H. Malcolm Macdonald, presented seventy-one major reviews, besides the lists of books received.

The annual volume will comprise approximately 300 pages, in keeping with the decision reached last year at the Association meeting to maintain as close an equilibrium as possible between the publication program and the new membership dues of \$4 per year.

In the same connection the Editor invites attention again this year to the *Quarterly's* advertising space. Only two and one-half pages were sold this year, and it is hoped more revenue may be secured from this source in the future. The rates are: Single page—\$30; half-page—\$18.50; outside back cover—\$50; inside back cover—\$40.

The Editor wishes to express special appreciation to the associate editors for the several disciplines, who have been most obliging and painstaking in their critiques of manuscripts; to the book review editor—Dr. H. Malcolm Macdonald, for his scholarly supervision of that department; to Dean George T. Walker, who as secretary-treasurer of the Association has been most generous of his time and effort in the complicated detail of the mailing list; and to all those who have submitted manuscripts for publication.

The Secretary reported that the sections had elected the following officers:

<i>Accounting</i>	
Chairman	Ralph C. Russell Texas College of Arts and Industries
Editor	Lloyd F. Morrison Louisiana State University
<i>Agricultural Economics</i>	
Chairman	Clarence A. Wiley University of Texas
Editor	Loris A. Parcher Oklahoma A&M College
<i>Business Administration</i>	
Chairman	Ellis M. Sowell Texas Christian University
Editor	C. L. Littlefield North Texas State College
<i>Business Research</i>	
Chairman	John R. Stockton University of Texas
Editor	Paul T. Malone University of Kansas
<i>Economics</i>	
Chairman	Carey C. Thompson University of Texas
Editor	Clay Cochran University of Oklahoma
<i>Geography</i>	
Chairman	Walter Hansen North Texas State College
Editor	William T. Chambers Stephen F. Austin State College
<i>Government</i>	
Chairman	W. V. Holloway University of Tulsa
Editor	Dick Smith Tarleton State College
<i>History</i>	
Chairman	J. L. Clark Sam Houston State College
Editor	Robert C. Cotner University of Texas
<i>Sociology</i>	
Chairman	A. Stephen Stephan University of Arkansas
Editor	Walter T. Watson Southern Methodist University

It was moved, seconded, and voted unanimously that the officers of the Association continue in their office until their successors are elected or appointed and assume office. (A check of the constitution as printed in the June 1950 issue of the *Quarterly* shows that this point is already covered in it.)

S. B. McAlister, as chairman of the Nominating Committee, submitted the following report:

For president, Vernon G. Sorrell, business administration, University of New Mexico.

For first vice-president, H. R. Mundhenke, economics, Texas Christian University.

For second vice-president, L. P. Gabbard, agricultural economics, Texas A & M College.

The report was accepted by formal vote. It was then moved, seconded, and passed that the nominations be closed and the nominees elected by acclamation.

Time limitations did not permit a discussion of the proposals on teacher education referred to in the minutes of the Executive Council dated March 22, 1951. President Waller announced that he would appoint a committee of Texans to study the matter if there were no objections. No objection was raised.

The meeting adjourned.

Minutes of the Meeting of the Executive Council, Austin, March 24, 1951

The incoming Executive Council met at 9:15 A.M. on March 24, 1951, in the Driskill Hotel. The following members were present: Vernon G. Sorrell, E. J. Foscue, H. R. Mundhenke, W. V. Holloway, Ellis M. Sowell, Carey C. Thompson, C. A. Wiley, Robert C. Cotner, J. L. Clark, and George T. Walker.

The minutes of the Executive Council meeting of April 8, 1950, as printed in the June, 1950, issue of the *Quarterly*, were approved without being read.

It was moved, seconded, and passed that Oliver Benson be reelected editor-in-chief of the *Quarterly*, and that George T. Walker be reelected secretary-treasurer.

A motion was made, seconded, and passed authorizing the secretary-treasurer to pay for clerical assistance on an hourly-rate basis.

It was moved, seconded, and passed that tickets to the annual banquet should be provided by the Association to the president and his wife, and that the president's hotel expenses should be paid by the Association when the convention hotel does not provide a complimentary room or suite.

A motion was made and approved by formal vote authorizing the president to take necessary action in making plans for the convention to meet at the Baker Hotel in Dallas in 1952 and/or 1953 if satisfactory arrangements can be made there.

The meeting was adjourned.

Alden Leslie Powell

We regret to announce the death of Professor Alden Leslie Powell, of the department of government, Louisiana State University, on June 9, 1950, of cerebral hemorrhage. He was forty-seven years old and had served at Louisiana State University for fifteen years. He had been an active member of the Association for many years, and was on the executive council in the capacity of chairman of the government section in 1950. He had served as assistant to the dean of the College of Arts and Sciences (1941 to 1944) and as acting head of the department of government (1950) at Louisiana State; he was vice-president of the Southern

Political Science Association in 1939, and a member of that Association's executive council from 1948 to 1950.

Among his publications are: *National Taxation of State Instrumentalities; Government in Louisiana; State and Local Government in Louisiana* (Boys' State Edition); *A Primer on Government in Louisiana; Registration of Voters in Louisiana*; "Our Vice President: Forgotten Men," *Historical Outlook*, 1944; "McCulloch vs. Maryland in Canada and Australia," *Michigan Law Review*, 1934; "Amending the Louisiana Constitution," *Southwestern Social Science Quarterly*, 1937; "Louisiana Boys and Girls Train for Citizenship," *Louisiana Municipal Review*, 1941; "Politics and Political Parties," *The Journal of Politics*, 1942; "Constitutional Growth and Development in the South," *The Journal of Politics*, 1948.